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Law Enforcement Cooperation as a 'Transnational Factor' in Cross-Taiwan Strait Relations

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as a ‘Transnational Factor’
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HKU Master’s of International and Public Affairs
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Law Enforcement Cooperation as a ‘Transnational Factor’ in Cross-Taiwan Strait Relations

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Cross-strait law enforcement cooperation, legal assistance, police cooperation, transnational legal assistance, cross-strait relations, Taiwan-China relations, fugitive deportation, illegal migrants, transnational crime, organized crime, Chinese criminal gangs.
Introduction

After the government of Taiwan began lifting decades-old restrictions on contacts with and travel to mainland China in the late 1980s, private exchanges between the two longstanding rivals have rapidly flourished, especially in the areas of travel, trade and investment. However, efforts by governments on both sides of the Taiwan Strait to conduct negotiations and cooperate with each other, even on “practical issues” arising from the massive scale of private exchanges, have been repeatedly halted by political disputes.

But quite astonishingly, cooperation between law enforcement authorities on both sides of the Taiwan Strait has steadily increased over the past decade and a half, regardless of ups and downs in political relations. Cooperation has ranged from simple sharing of information regarding criminal cases to the deportation of fugitives, visits by high-ranking police officials and seminars on cross-strait crime-fighting. At a time when governments in Taipei and Beijing are still not on speaking terms with one another, law enforcement authorities on both sides have stepped up coordination and are increasingly coming into contact with each other. The field of cross-strait law enforcement cooperation stands out as going against the recent trend of declining cooperation between governments on both sides in spite of booming private exchanges – a highly unusual phenomenon that has been dubbed “hot economics, cold politics” ("jingji re, zhengzhi leng 經濟熱，政治冷") and “private sector hot, public sector cold” ("minjian re, guanfang leng 民間熱，官方冷").

In spite of the deep significance of cross-strait law enforcement cooperation, currently there is woefully little academic literature regarding this topic. Especially

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as cooperation has been stepped up over the past few years, outsiders have simply not had enough time to digest the context and deeper meaning of developments described in news media reports. Almost all of the information currently available has been published in Chinese, making it inaccessible to international scholars who cannot read the language. Even the authors of Chinese-language research projects complain of a severe lack of research on this subject and rely heavily on foreign works for theoretical support.  

In the hopes of helping international scholars understand this important issue, this research project will present a basic study of law enforcement cooperation between governments on both sides of the Taiwan Strait, and how this cooperation functions as an important “transnational factor” in overall cross-strait relations. However, the terminology used in this research report has been selected carefully to avoid diverting attention from the main subject by addressing political controversies and claims regarding Taiwan’s statehood and international status. Quote marks have been placed around the term “transnational” to side-step issues surrounding Taiwan’s political status, and the term “law enforcement” has been chosen instead of “police” or “policing” to work around differing conceptions on both sides with regard to police work (i.e., “public security” versus “policing,” etc.) and the justice system in general. Rather than attempt to pass judgment on these contentious issues, this research project shall focus on utilizing approaches and theories of political science that are still appropriate tools for analyzing the highly unusual situation currently existing in the

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2 According to Taiwan Central Police University Professor James Shen Tao-chen: “The amount of case study data is severely limited with regard to discussion of trans-regional crime between both areas of the Taiwan Strait.” Quote taken from introduction to Analysis and Evaluation of Possible Models for Cross-Strait Crime-Fighting Cooperation, James Shen Tao-chen, Liu Chin-fu, Sung You-yuan and Tseng Cheng-yi eds., Cross-Strait Interflow Prospect Foundation: Taipei May 2002, page vi. Professor Shen’s colleague at Central Police University, Dr. Mon Wei-teh, said: “At present, still only a handful of domestic academic research projects have been done regarding transnational crime.” Quote taken from Both Sides of the Taiwan Strait and Transnational Crime, published in a collection of research theses presented at the “Seminar on Cross-Strait Public Order Problems,” Central Police University, Kueishan, Taiwan, December 21, 2001, page 7.
Taiwan Strait. The main goal of this research project is to help international scholars, ranging from the fields of political science, law, international relations, China studies, criminology and policing, to better understand this unique situation that is already proving to be highly significant in the search for lasting peace in the Taiwan Strait.

**Background of Cross-Strait Separation, Reconciliation**

While this research project will mainly focus on the specific issue of law enforcement cooperation, some background is necessary to explain the origins and context of the current situation in the Taiwan Strait, how both sides remain unwilling to recognize each other’s legal authority, and how Taipei and Beijing have dealt with each other in spite of their self-imposed restrictions. It is important to note that both sides are especially sensitive to issues of names and national titles, “official” versus “unofficial” contact, and talks about “political” versus “practical” issues. What may appear to an outside observer as little more than a play on words has consistently been regarded by governments on both sides as a solemn issue of the utmost importance.

Taiwan’s separation from mainland China resulted from historic developments produced by the Chinese Civil War following World War II. After World War II ended, forces loyal to Mao Zedong’s Chinese Communist Party (CCP) and the Republic of China (ROC) government led by Chiang Kai-shek’s Kuomintang (also known as the Nationalist Party, or KMT for short) resumed fighting in a conflict that had pre-dated Japan’s invasion of China. By mid-1949, communist rebels gained the upper hand, prompting Chiang’s KMT-led government to retreat from its capital at Nanking (Nanjing) to Taiwan, an island province that had been restored to Chinese sovereignty in 1945 after 50 years of Japanese colonial rule. By October 1, 1949, when Mao Zedong proclaimed the establishment of the People’s Republic of China,
the ROC government had already lost control over most of the country. However, it
managed to hold on to Taiwan, where ROC government ministries and agencies were
re-located and consolidated. Surviving remnants of the ROC’s armed forces were
pulled back to Taiwan, and the ROC government also retained control over several
islands situated off the Chinese coastline.³ Bitter after defeat, Chiang Kai-shek’s
government proclaimed the retreat to Taiwan was only temporary and that the ROC
would prepare for a “counter-attack” to restore its rule over the Chinese mainland.
As part of these efforts, Chiang’s regime claimed to be China’s sole legitimate
government. Taipei declared itself the “temporary capital” of “Free China,” and
despite losing control over the vast majority of the country, Taiwan retained China’s
seat in the United Nations. For decades, Taiwan maintained a strict policy of
preparing for a “counter-attack” against the CCP, which precluded and even strictly
punished contacts of any kind with the other side. Beginning in 1948, the year
before the mainland fell to Communist forces, a state of martial law was proclaimed
over all KMT-held areas, and the Temporary Provisions Effective During the Period
of Communist Rebellion granted the KMT government sweeping powers to arrest and
detain any persons suspected of contacting or even sympathizing with communists.
The following year, transportation, mail and commercial links across the Taiwan Strait
were completely cut off.

On the other side of the Taiwan Strait, the People’s Republic of China
proclaimed the ROC had been overthrown by the Chinese masses in a dialectic act of
history, rendering the KMT-led regime on Taiwan illegitimate. The CCP vowed to

³ These included the Kinmen (Quemoy), Wuchiu and Matsu island groups, situated off the coast of
southeastern China’s Fujian Province, Hainan Island (now Hainan Province), on China’s southeastern
coast, and Tachen (Dachen) island, off the coast of Zhejiang Province. Of these, Hainan was lost to
invading Communist forces in April, 1950, while Tachen was abandoned in early 1955 amid a major
Communist barrage. Despite repeated Communist attacks in the 1950s, Taipei held on to Kinmen,
Wuchiu and Matsu. Taiwan also currently occupies Taiping Island (Itu Aba), the largest island in the
South China Sea’s hotly contested Spratly (Nansha) chain, as well as some of the Pratas (Dongsha)
islands.
“liberate” the island and deployed its armed forces along China’s southeastern coast in preparation for a military attack against territories remaining under the KMT’s control. The standard position of Beijing, rejecting recognition of the Taipei government’s claim to being the continuation of the Republic of China, was summarized in a Policy White Paper released by China’s State Council (Cabinet) in 1993:

Under the leadership of the Chinese Communist Party, the Chinese people were forced to fight a People’s War of Liberation for more than three years. Because the Kuomintang clique was acting against common sense at the time, it was abandoned by all races and all people of the entire country, and the Chinese people finally overthrew the ‘Republic of China’ government in Nanking. On October 1, 1949, the People’s Republic of China was established. The People’s Republic of China became China’s sole legal government. Some soldiers and government personnel from the Kuomintang clique retreated to Taiwan. With the support of the United States government at the time, they created the situation of separation across the Taiwan Strait.4

The June 1950 outbreak of the Korean War and subsequent changes in the international situation effectively prevented each side from attempting to finish off the other. The war focused world attention on rivalry between communist and non-communist blocs of states, and mainland China dispatched troops to fight against US-led forces on the Korean Peninsula. Under US leadership, mainland China was condemned at the United Nations as an “aggressor” for aiding North Korea and was subsequently punished with an arms and trade embargo that isolated Beijing from the non-Communist world.5 Besides sending troops to fight in Korea, the United States

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5 The UN General Assembly passed a resolution on February 1, 1951 branding the People’s Republic of China as an “aggressor” in Korea, and subsequently recommended on May 18, 1951 to impose an embargo against shipments of all war materiel to China, ranging from arms to petroleum. See “Collective Security and its Alternatives,” Chapter 7 in A. LeRoy Bennett and James K. Oliver, eds., International Organizations: Principles and Issues (7th Edition), Prentice-Hall, Upper Saddle River, New Jersey, USA, 2002, pp. 165-166.
also dispatched a naval fleet to patrol the Taiwan Strait. The US and Taiwan eventually signed a Mutual Defense Treaty threatening American intervention in the event of a mainland Chinese attack. But while the US was ready to prevent Taiwan from falling into communist hands, Washington also prevented Chiang Kai-shek from launching his “counter-attack” against the mainland. Thus with the onset of the Cold War, a line was effectively drawn between KMT-ruled Taiwan and CCP-ruled mainland China, perpetuating the existence of two rival political entities separately governing each side. Both Taipei and Beijing claimed to be China’s sole legitimate government, and that there was only “one China” in the world, represented by their respective sides. Taipei and Beijing both resisted efforts from the international community aimed at granting recognition in any form for their political division. In 1950, when Taiwan held China’s United Nations seat, Taipei completely rejected efforts by United Nations Secretary-General Trygve Lie aimed at bringing the PRC into the UN without threatening Taiwan’s position or participation in the world body. And after Beijing replaced Taipei as China’s UN representative in 1971, the PRC has consistently cited its “one China” principle as the basis for refusing to allow Taiwan any form of UN participation. 6

Cross-Strait Ties Begin to Warm

While US intervention was blamed by mainland China for causing cross-strait separation,7 the warming of relations between Washington and Beijing that began in the early 1970s and concluded with the establishment of diplomatic relations in 1979 also prompted the mainland to drop its policy of seeking Taiwan’s “liberation” through military force in favor of achieving “peaceful reunification” through

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6 In 1950, when most major governments still did not have relations with the PRC, then-UN Secretary General Trygve Lie proposed bringing the PRC into the UN by asking member states to de-link the question of UN representation from diplomatic recognition issues. Taipei rejected the idea based on its claim of being China’s sole legitimate government. For details, see Bernard T.K. Joei, “Invisible Support Felt for ROC bid,” China Post, Taipei, November 15, 1995, page 4.

7 PRC State Council Taiwan Affairs Office, The Taiwan Question and Chinese Unification.
negotiations. In the late 1970s, Chinese leader Deng Xiaoping began gradually replacing “liberation” rhetoric with a peaceful “one country, two systems” formula for cross-strait reunification. Over the next few years, Deng and other Chinese leaders offered to let Taiwan retain its capitalist economic system, full self-government without interference, and even its own armed forces if Taipei would negotiate to make the island a “special administrative region” of a unified China under the central government in Beijing. In 1981, Chinese President Ye Jianying issued a nine-point proposal, which added a proposal for holding party-to-party talks between the CCP and KMT.

In Taiwan, Chiang Kai-shek had remained adamant toward the mainland even after Washington began making contacts with Beijing in 1971, the crucial year that saw Taipei lose China’s UN seat. Chiang died in 1975, and was eventually replaced as leader by his son, Chiang Ching-kuo. Faced with a series of offers from Beijing to open negotiations, Chiang Ching-kuo consistently maintained he had no intention of changing his father’s policy of refusing contacts with Beijing and working to overthrow the “communist bandits.” Chiang Ching-kuo’s policy of refusing talks with Beijing came to be dubbed the “three no’s,” for statements he made in an April 1979 speech, although the policy itself long predated these remarks:

> Based on past anti-communist experience, our party maintains a stance of ‘no compromise, no contact, no negotiation’. This is not only based upon lessons of blood, it is also our unchanging policy, as well as our strongest weapon to counter the enemy... The communist bandits are

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8 Michael E. Marti, “China’s Taiwan Policy: Carrot and Stick,” Peace Forum series essay published by Taiwan Research Institute Division of Strategic and International Studies, Tamsui, Taiwan, September 2002. Available on web at: [http://www.dsis.org.tw/peaceforum/papers/2002-09/CSP0209001e.htm](http://www.dsis.org.tw/peaceforum/papers/2002-09/CSP0209001e.htm). China’s White Paper also discusses Beijing’s peace initiatives toward Taiwan in the context of warming Sino-US relations. One key factor was US abrogation of the Washington-Taipei mutual defense treaty and subsequent removal of all US military forces from Taiwan. The concept of “peaceful reunification” had been proposed in the 1950s by Chinese Premier Zhou Enlai and even supreme leader Mao Zedong himself, although this was conditional on cutting the alliance with Washington. Related documents are published in full at the Chinese Academy of Social Sciences Taiwan Forum website, at [http://xjip.cass.net.cn/zhuanti/taiwan_1/main.htm](http://xjip.cass.net.cn/zhuanti/taiwan_1/main.htm).

9 Marti.
so eagerly seeking to make contact with us. Some persons in our
country who don’t understand the situation believe we would suffer if
we do not... I believe this sort of naïve thinking is completely ignorant
of the communist bandits’ nature... It must be known that as long as
anyone among ourselves makes contact with persons representing the
communist bandits, the communist bandits’ goals will be achieved at
the very moment of shaking hands, nodding heads or smiling. We will
have been taken advantage of.  

Until Chiang Ching-kuo’s death in 1988, Taiwan maintained its official “no
compromise, no contact, no negotiation” policy toward Beijing. But following the
loss of diplomatic relations with Washington in 1979, Chiang began taking steps to
dismantle Taiwan’s war footing in favor of gradually accepting peaceful coexistence
with the mainland and democratizing the island’s political system. In his public
remarks on cross-strait issues, President Chiang spoke of competing ideas, rather than
plans for military conquest. And more significantly, Chiang gave the go-ahead for
Taiwan diplomats and representatives to make face-saving compromises on the
sensitive “one China” issue to facilitate Taiwan’s continued participation in
international affairs.

The ‘Olympic Formula’

One of the earliest and most symbolic examples of this policy was Taiwan’s
willingness to change its name and status in the International Olympic Committee
(IOC). After claiming for decades to represent China in international sporting events,
Taiwan was ejected from the IOC in late 1978, after the PRC objected to Taiwan’s use

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10 Quotes taken from text of speech delivered by President Chiang Ching-kuo on April 4, 1979, on the
occasion of the fourth anniversary of his father’s death. Chiang issued the so-called “three no’s” after
speculation followed initial contacts between Olympic Committee organizations representing Taiwan
and mainland China at international forums. The full text of Chiang’s “three no’s” speech is available
11 Taiwan later referred to this policy as “peaceful confrontation.” See “Mainland Affairs and
of the name “Chinese Olympic Committee, Taipei,” as well as the display and playing of the ROC flag and national anthem at Olympic events. The move prevented Taiwan athletes from participating in the 1980 Olympic Games at Moscow, prompting Taiwan’s Olympic committee to file a lawsuit against the IOC’s Swiss headquarters. After a court at Lausanne ruled the IOC’s disbarment of Taiwan was a politically motivated decision that violated the spirit of the Olympic Charter, negotiations were opened between Taipei and the IOC on rectifying Taiwan’s participation, which precipitated informal contacts with mainland China’s delegation. Taipei signed a document on March 23, 1981 re-admitting Taiwan’s Olympic Committee under the name “Chinese-Taipei Olympic Committee.” The name was the product of careful negotiations designed both to restore Taiwan’s participation while refraining from adoption of any title implying Taiwan was a part of the People’s Republic of China. The final agreement permitted athletes from Taiwan to display the Chinese-Taipei Olympic Committee banner in place of the ROC flag, and for Taiwan’s “Flag Song” to be played at Olympic events, such as medal awarding ceremonies. This permitted athletic delegations from mainland China and Taiwan to participate in international athletic events, starting with the 1984 Los Angeles Olympic Games. The Olympic arrangements also led to widespread speculation of political rapprochement between the two sides, prompting denials as early as President Chiang’s “three no’s” speech of 1979.

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12 Taiwan would probably have opted to take part in the Moscow Olympic Games in spite of the US-led boycott amid bitterness over Washington’s de-recognition of Taipei the previous year.
13 Taiwan’s version of the historic events surrounding its Olympic dilemma is presented on the Chinese-Taipei Olympic Committee website at: http://www.tpe-olympic.org/changes/changes_02.asp.
14 Taiwan even insisted on the use of a dash instead of a comma in between the two carefully chosen words “Chinese-Taipei” in its title to avoid implying recognition of Taiwan as a part of the PRC.
15 The “Flag Song” is commonly played at ceremonies in Taiwan when the ROC flag is raised, such as at public schools and competitions.
16 As part of the settlement with Taiwan, the IOC changed its own rules requiring participating delegations to display national flags. While the vast majority of countries still display their national flags, this rule change later made it possible for teams from North and South Korea to march together under a single banner at the Sydney 2000 Olympic Games.
Economic, Travel Restrictions Lifted

Around the time that Taiwan was permitted to return to international sporting events, the island’s government had also begun quietly tolerating economic interaction with the mainland, starting by neither encouraging nor discouraging indirect exports via “third areas,” which usually meant shipping through the British territory of Hong Kong. One of the first steps was adoption of regulations in July 1985 permitting indirect cross-strait exports, under which there was “no contact, no encouragement and no interference” in efforts by Taiwan firms to export goods to mainland China through third areas.\(^{17}\) In 1987, the same year that President Chiang Ching-kuo formally ended the state of martial law, Taipei also lifted decades-old restrictions on “family visits” to mainland China by residents of the island. The decision opened a floodgate of mainland trips by Taiwan residents, including elderly veterans who had relatives there and many more Taiwanese who did not. According to statistics published by Taiwan’s Government Information Office, more than 6.9 million trips were made to the mainland by Taiwan residents between November 1987 and December 1994, a remarkable number considering Taiwan’s population at the time was 21 million.\(^{18}\)

After Taipei lifted its ban on remittances to relatives in mainland China in May of 1990, the amount of money sent jumped from US$18 million for the remainder of that year to US$350 million in 1994.

After visits were permitted, Taiwan also began tolerating more economic interaction with mainland China, especially investment in manufacturing plants. Beijing began enacting regulations to encourage cross-strait trade and investment as early as May of 1979, when the National Ministry of Foreign Trade issued

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\(^{17}\) This was dubbed the “new three no’s policy.” See Yu Keli, “Roles and Functions of Taiwan Businesspeople in the Development of Cross-Strait Economic and Trade Relations,” *Taiwan Yanjiu* (Taiwan Research), Beijing, Vol. 4, 1999, [http://xjp.cass.net.cn/zhuanli/taiwan_1/zhijia/zhij076.htm](http://xjp.cass.net.cn/zhuanli/taiwan_1/zhijia/zhij076.htm). Mr. Yu is deputy director of the Taiwan Research Institute at the Chinese Academy of Social Sciences and a noted authority on Beijing’s policies toward Taiwan.

“Temporary Regulations Regarding Development of Trade With Taiwan” that legalized economic interaction with the island as “trade taking a special form during the interim period of Taiwan’s reunification with the motherland.”\textsuperscript{19} These regulations were drafted after the National People’s Congress, China’s national legislature, issued an open “Message to Taiwan Compatriots” that encouraged economic exchanges and guaranteed the rights of Taiwanese trading with and investing on the mainland.\textsuperscript{20} However, Taipei’s continuing ban on direct contacts forced businesspeople to route their trade and investment through third areas and avoid registering their mainland investments with Taiwan’s government amid fears of being punished, and this kept totals down. Before Chiang Ching-kuo officially permitted cross-strait travel in mid-1987, Taiwan businessmen only made 80 investment projects in the mainland worth about US$100 million.\textsuperscript{21} But after the ban on mainland travel was lifted, this figure skyrocketed to 3,785 projects valued at US$3.29 billion between 1988 and 1991. Another major factor motivating the investment was China’s adopting a series of incentives, including breaks on business and land taxes, to attract Taiwanese investors.

**Both Sides Update Laws, Regulations**

Taiwan’s trade and investment with the mainland continued operating within a gray area until President Lee Teng-hui, who took over after the 1988 death of Chiang Ching-kuo, undertook a series of sweeping political reforms that democratized the island’s government and formally ended the official policy of seeking “recovery” of the mainland in favor of seeking peaceful co-existence with Beijing. In 1990, President Lee gathered government officials, experts and academics to form a new

\textsuperscript{19} Yu Keli.
\textsuperscript{20} The National People’s Congress 1979 “Message to Taiwan Compatriots” is on the Chinese Academy of Social Sciences website: http://xjjp.cass.net.cn/zhuanti/taiwan_1/documents/qgrdcwh.htm.
\textsuperscript{21} Yu Keli.
body called the National Unification Council. While the Council was merely an advisory body without compelling legal authority, its members drafted the Guidelines for National Unification under official government sanction, which were then formally endorsed by the Executive Yuan (Taiwan’s Cabinet) in March of 1991.  

The Guidelines formed the legal basis for making new policies seeking a peaceful relationship with the mainland, including the January 1991 establishment of a new government body charged with handling cross-strait relations, the Mainland Affairs Council. In May of 1991, President Lee officially terminated the 1948 Temporary Provisions Effective During the Period of Communist Rebellion granting the government sweeping powers to fight communists, which in effect formally ended the state of civil war with the Chinese Communist Party and was “implicitly recognizing the CCP as a political entity in effective control of the mainland.”

In July 1992, the Statute Governing Relations Between People of the Taiwan Area and the Mainland Area was passed to form the legal basis for all interaction with the mainland, including economic, cultural and social exchanges. Among other things, the Statute formally divided Chinese territory into two “areas,” including the “Taiwan Area” and the “Mainland Area,” of which only the “Taiwan area” was under the effective control of the ROC government. But the law did not advocate independence either, as it referred to governing cross-strait relations “before national reunification.”

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24 The full text of the 1992 Statute Governing Relations Between People of the Taiwan Area and the Mainland Area can be viewed on the web site of the Compensation Foundation for Improper Verdicts, a government-sponsored foundation set up to compensate persons wrongfully accused of being “communist bandits” and spies during the martial law era, at: http://www.cf.org.tw/law/law2_5.htm. The Statute has since been revised to accommodate increased cross-strait exchanges.

25 Translated from “Basic Principles,” Article I, Statute Governing Relations Between People of the Taiwan Area and the Mainland Area.
ministries were directed to legally permit certain types of mainland investment, especially in areas of labor-intensive manufacturing dubbed “sunset industries” due to high operating costs and a shortage of labor in Taiwan.

While these historic reforms were being implemented in Taiwan, the mainland was also moving to adopt new regulations and laws aimed at attracting Taiwanese investors by guaranteeing their legal rights and status. For example, in March of 1994 China’s National People’s Congress passed the People’s Republic of China Taiwan Compatriots Investment Protection Law providing legal protections for Taiwan investors.

**Investment, Trade Relations Boom**

These new regulations not only provided economic impetus for Taiwanese investment, but also encouraged entrepreneurs to apply with mainland authorities for their permits in their capacity as Taiwan-based enterprises, rather than through front corporations in Hong Kong (although funds still had to be routed through the territory) or figurehead individuals on the mainland itself. The mainland’s openness and willingness to offer legal protection also encouraged investment from other industries besides labor-intensive manufacturing, such as agriculture and information technology, and investors began expanding from popular coastal regions into the interior. These developments produced a boom in cross-strait investment, and according to Beijing’s official statistics, from 1992 to 1997, the amount of money invested on the mainland by Taiwanese entrepreneurs shot up to US$11 billion for some 20,125 individual projects.\(^{26}\)

The period between 1997 and 2000 saw a slowdown in the amount of money being invested by Taiwan firms on the mainland. However, the categories of investment still continued to move up the economic chain from simple,

\(^{26}\) Yu Keli.
labor-intensive manufacturing into service industries, information technology and high-tech manufacturing. According to Taiwan government statistics, the amount of money invested by Taiwan firms on the mainland went down from more than US$4 billion in 1997 to little over half that amount the following year and just US$1.3 billion for 1999.\textsuperscript{27} The slowdown was attributed to a wide variety of factors, ranging from the nearly complete transferal of Taiwan’s labor-intensive manufacturing sector to the mainland to worries brought about by political friction between Taiwan and the mainland culminating in the “Taiwan Strait crisis” of 1995-96. During this tense period, Taiwan’s government adopted an official policy, dubbed the “Go South Policy” or “Southern Strategy” (“nanxiang zhengce 南向政策”) that encouraged local firms to divert investment away from mainland China in favor of friendly Southeast Asian countries. Another factor that may have affected investment plans was the short period of political instability and cross-strait tensions surrounding Taiwan’s March 2000 presidential election, which saw the KMT lose power for the first time. As a result, political power was handed over to the Democratic Progressive Party, which had advocated outright independence for Taiwan before its candidate, Chen Shui-bian, adopted a more moderate policy of maintaining the status quo during the election campaign. Following the May 2000 inauguration of the DPP’s Chen Shui-bian as president, observers were monitoring Beijing for signs of an angry reaction, as Chinese Premier Zhu Rongji had warned Taiwanese voters they “wouldn’t get another chance to regret” if they elected Chen.\textsuperscript{28} While Beijing initially threatened to impose retaliatory measures against business groups accused of

supporting the DPP, and even initially harassed some of their mainland subsidiaries. The PRC eventually adopted a “wait-and-see” policy that avoided direct confrontation with Chen’s government in favor of encouraging expansion of private economic exchanges. For its part, President Chen’s government continued lifting restrictions on cross-strait trade and investment, and increased the pace of opening up as part of preparation for Taiwan’s January 1, 2001 admission to the World Trade Organization. Combined with economic factors, the result of these events was a dramatic upsurge in Taiwanese investment on the mainland. According to official Taiwan statistics, investment totaled US$2.6 billion for the year 2000, and increased to US$2.8 billion the following year. And for the year 2002, the figure shot up to an all-time high of US$6.7 billion.

By the end of 2002, accumulated mainland investment by Taiwan enterprises had reached a minimum of US$27 billion for 27,276 individual projects, according to Taiwan’s most conservative estimates. But even by Taipei’s own admission, the actual amount of money invested in mainland China was far higher, as the US$27 billion figure only reflected “approved” investments that were registered and had official permission from Taiwan’s government. According to Mainland Affairs Council Chairperson Tsai Ing-wen, total investment may have been “as high as US$70 billion” as of the end of 2000, since much of the investment was not reported to government authorities in Taipei. This amount would exceed 40 percent of the island’s total outbound investment. Two years later, reports in major international

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news media were putting the total figure as high as US$100 billion.\textsuperscript{32}

While Taiwan’s investment in the mainland has gone up and down, indirect trade between both sides of the Taiwan Strait has grown consistently. According to Taiwan’s data based in part upon Hong Kong Customs statistics, since the vast majority of cross-strait trade passes through Hong Kong, exports from Taiwan to the mainland have jumped from US$6.9 billion for 1991 to nearly US$13 billion two years later and almost US$18 billion for 1995. Restrictions on mainland-made goods have been blamed for broad gaps in Taiwan’s trade with the mainland, as imports have consistently lagged behind exports. Still, the value of Taiwan’s imports from mainland China has risen rapidly, especially in recent years as Taipei continued lifting restrictions in preparation for entering the WTO. According to Taiwan’s official statistics, imports of mainland-made goods in 1991 were just US$1.1 billion, and by 1995, the level of imports rose to about US$3 billion. By the end of 2002, the value of annual trade had shot up to the point where Taiwan exported over US$29 billion worth of goods to the mainland and imported some US$7.9 billion worth of Chinese goods. According to news media reports from mainland China, Taiwan’s trade surplus with the mainland was more than US$10 billion in 1993, passed US$19 billion in 2000 and was expected to reach US$23 billion for the year 2002. Besides the sheer imbalance of trade, perhaps more important to note is the fact that beginning in 2002, mainland China has surpassed the United States as Taiwan’s single largest export destination, absorbing nearly a quarter of the island’s exports in 2002.\textsuperscript{33}

Combined with the massive investments that have been made over the past decade


and a half, the sheer volume of cross-strait trade has forced government officials in Taiwan to place higher priority on their dealings with the mainland. At the same time, Taiwan is no longer immune to economic events impacting the mainland. Thus Taipei has consistently been an eager opponent of measures that could inflict harm on mainland China’s economy, such as the oft-threatened revocation of “Most Favored Nation (MFN)” status granting the mainland normal trading relations with the United States. Taiwan’s opposition to revoking MFN was frequently cited by US presidents, including George H.W. Bush and Bill Clinton, as a reason for extending MFN for China.

With total cross-strait trade topping US$37.4 billion for the year 2002, it is remarkable to note that while trade and investment relations with the mainland have become imperative for Taiwan’s continued economic prosperity, the vast majority of this tremendous economic activity is still routed through Hong Kong or other “third areas” due to the transport ban. While governments on both sides of the Taiwan Strait have repeatedly called for re-opening direct transportation links cut since 1949, no progress has been made in opening negotiations on the issue due to political disputes that have become even more complicated, in spite of growing economic ties.

**Both Sides Start Dealing With Each Other**

At this point in reviewing the state of cross-strait ties, it is important to review steps taken by governments on both sides aimed at dealing with the tremendous volume of bilateral issues and disputes arising from cross-strait trade, investment and people-to-people relations. Clearly, leaders in Beijing and Taipei realized early on that some form of contact and negotiation was required in order to prevent disputes.

34 *Los Angeles Times* columnist Jim Mann, a veteran China watcher, observed that “the Taipei government never sought to curb China’s MFN benefits, because many Taiwan-based companies were running factories in mainland China, earning handsome profits by exporting their products to the United States.” See Jim Mann, *About Face: A History of America’s Curious Relationship With China, From Nixon to Clinton*, Vintage Books, New York, New York, USA 2000, page 244.
from derailing the healthy development of private contacts. Beijing declined to open formal government-to-government contacts as sought by President Lee’s new formula of “one country, two governments” or “one China, two political entities,” which embraced a “one China” principle while demanding the mainland treat Taipei as a legitimate government. But Beijing was willing to hold unprecedented negotiations between Red Cross societies representing both sides, who arranged for indirect shipments of mail and signed the historic “Kinmen Accord” in September 1990 arranging for repatriation of illegal migrants and fugitives. And starting just around this time, in late 1990 secret envoys representing mainland China and Taiwan met in Hong Kong for informal talks that “reportedly included the Guidelines for National Unification” and boosted confidence on both sides so high they eventually agreed to take their dialogue public. This paved the way for both sides to establish a new system to replace talks between their respective Red Cross organizations.

To avoid any semblance of formal government-to-government contacts, a new system of dealing with each other through ostensibly private, government-staffed intermediary organizations was established by both sides in 1990 and 1991 as a result of the secret talks. Taipei started by establishing the Straits Exchange Foundation (SEF) in November of 1990. While the SEF was a nominally private foundation, it functioned under the direct operation, staffing and funding of the Mainland Affairs Council and was closely supervised by the Presidential Office. Beijing followed suit in November of 1991 by setting up the Association for Relations Across the Taiwan Strait (ARATS), an ostensibly private organization authorized by the Chinese

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35 Bernice Lee, pp. 21-22.
36 A translation of the “Kinmen Accord” is contained in Appendix I of this research project, and details of the accord will be discussed below.
38 Su Chi, page 3.
government to conduct relations with Taiwan. While purportedly “private” in nature, these two organizations have been headed by influential persons close to top government leaders on both sides, including ARATS Chairman Wang Daohan, a mentor of former Chinese President Jiang Zemin, and Koo Chen-fu, patriarch of Taiwan’s wealthy Koo family business conglomerate and longtime member of the KMT’s elite Central Standing Committee. Mr. Wang and Mr. Koo held their historic first meeting in Singapore in April 1993, where they signed a four-part agreement on informal cross-strait relations and arranged for a regularized schedule of meetings and negotiations between the two bodies, to be held alternatively in Taiwan and on the mainland.

‘Political’ vs. ‘Practical’

Perhaps most importantly, Mr. Wang and Mr. Koo both agreed that the ARATS-SEF contacts were “not political, but nongovernmental, economic, practical and functional.” This terminology later became very important for Taiwan nearly a decade later, as Taipei sought to continue “practical” negotiations with Beijing while avoiding “political” talks that might undercut the island’s political status. The separation of “practical” from “political” was in line with the *Guidelines for National Unification*, which divided cross-strait relations into three stages, including near-term, medium-term and long-term, under which relations would be conducted through intermediary bodies over the short term in order to “enhance mutual understanding through exchanges,” “eliminate hostility through reciprocity” and “to establish a

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39 Mr. Koo’s nephew Jeffrey Koo Lien-sung has since taken his place running the day-to-day affairs of the family’s Chinatrust (Koo’s) Group, as well as in the KMT Central Standing Committee.
mutually benign relationship.”\textsuperscript{42} Or as scholar Bernice Lee put it, “a distinction was made between private, people-to-people contacts, which were to be encouraged, and official government ones, which remained prohibited.”\textsuperscript{43}

The regularized schedule of ARATS-SEF meetings was unilaterally suspended by Beijing in 1995 after a series of events brought cordial relations to a halt. On January 30 of that year, Chinese President Jiang Zemin issued a landmark eight-point Taiwan policy statement in which he reiterated Beijing’s opposition to Taipei’s “divided country” rhetoric and urged Taipei to enter negotiations aimed at reunification under a “one China” principle. But in his remarks, President Jiang also stated a willingness to meet Taiwan leaders, either on the mainland or in Taiwan, and proposed signing an agreement “on officially ending the state of hostility between the two sides.”\textsuperscript{44} President Lee responded on April 8 with a six-point statement repeating Taiwan’s position that the Chinese nation was divided into two separate and equal “political entities.” Lee also restated Taipei’s desire to take part in international organizations “on an equal footing” with the mainland, and demanded Beijing publicly renounce the use of military force against the island as a precondition for negotiating a cross-strait peace accord. While these statements revealed large discrepancies and contradictions between Beijing and Taipei, ARATS and SEF officials continued holding negotiations in preparation for plans to hold a second Wang-Koo meeting in Beijing sometime in July of that year. The first of these preparatory meetings was held in Taipei in late May, where representatives of both organizations reached preliminary agreement on eight items of cooperation in anticipation of a second preparatory meeting to be held in Beijing the following

\textsuperscript{42} Guidelines for National Unification, Section IV.
\textsuperscript{43} Bernice Lee, page 21.
\textsuperscript{44} President Jiang’s offer to exchange visits was part of a rejection of Taiwan’s suggestion for leaders to meet on the sidelines of a major international gathering, such as the Asia-Pacific Economic Cooperation (APEC) forum leaders’ summit. See Shirley Kan, page 31, and Bernice Lee, pp. 41-42.
month, including an agreement on cooperation to fight crime.\textsuperscript{45}

**Relations Set Back**

But the following month, an event occurred that was so controversial that Beijing blamed it for calling off cross-strait dialogue and the long-awaited second meeting between Wang and Koo. From June 7-12, President Lee made an unprecedented “private visit” to the United States, where he gave a speech at a reunion of his New York alma mater, Cornell University. While the US government had traditionally refused to let Taiwan leaders make anything but transitory stops on US soil, Lee was given permission to visit after the US Congress overwhelmingly passed a resolution earlier that year demanding Lee receive a visa. The trip proceeded in spite of repeated protests from Beijing, which warned of retribution against Taiwan and the US if Lee’s visit went ahead. Despite Taiwan’s assurances that the visit would be non-political, President Lee gave a politically charged speech at Cornell that lauded Taiwan’s democratic reforms, held up Taiwan’s achievements as a model for economic liberalization and democracy in mainland China and complained about Taiwan’s isolation in the international community. On his return to Taiwan, President Lee’s trip was widely considered a great success for his policy of “pragmatic diplomacy” in defiance of Beijing’s diplomatic embargo, as well as a shot in the arm for his winning campaign in Taiwan’s first-ever direct presidential election, held in March of 1996.

Beijing reacted with fury over the visit, accusing the US of betraying its promise to adhere to a “one China” policy and accusing President Lee of promoting Taiwan’s independence, “two Chinas” or “one China, one Taiwan.” In public remarks, Chinese officials warned of consequences for both the US and Taiwan, who would be shown that efforts to split Taiwan away from the Chinese nation would be

\textsuperscript{45} These eight areas of agreement included law enforcement cooperation.
unsuccessful. One of the first moves Beijing undertook in this regard was to recall its ambassador from Washington. On June 16, the same day the ambassador was recalled, ARATS sent SEF a terse letter stating that the atmosphere of cross-strait relations had been ruined and that talks would be suspended indefinitely. Following the suspension of ARATS-SEF talks, the mainland side proceeded to organize a series of military exercises intended to demonstrate Beijing’s will to counter any efforts by Taiwan to move toward independence. From July 21-26 and again from August 15-25, China conducted live test-firings of ballistic missiles at target zones adjacent to Taiwan waters. And from March 8 to 23 of 1996, the mainland conducted a broad range of land, air and sea exercises, including a mock amphibious invasion and more missile firings coinciding with Taiwan’s March 23 presidential election. At the height of the tensions, the US dispatched two aircraft carrier battle groups to the region. Despite all the saber-rattling and angry criticism of Lee conducted by the mainland’s state-controlled press, Lee still easily won the election, taking 54 percent of the vote. The crisis finally started to cool down after Beijing announced its “struggle” against Taiwan independence forces had come to an end, although the mainland would continue “listening to his (Lee’s) words and observing his (Lee’s) actions.”

Ties Set Back Again After Second Wang-Koo Meeting

While the Taiwan Strait Crisis came to an end, the system of ARATS-SEF negotiations remained stalled all the way until 1998, when both sides sat down in Beijing to organize an agenda for the long-awaited second encounter between Wang Daohan and Koo Chen-fu. Two meetings were held in Beijing in April and July, and Koo finally made his trip from October 14-18 of that year. But due to lingering disputes over Taiwan’s status and the “one China” principle, no substantial agreements were reached, even though Mr. Koo met with top officials including
President Jiang Zemin during his trip. What little progress had been made with Mr. Koo’s trip to the mainland was soon negated after President Lee made a series of public remarks indicating another change in his stance on Taiwan’s status. During a July 9, 1999 interview with the German radio network Deutsche Welle (Voice of Germany), President Lee abandoned his former position of opposing Taiwan’s independence and seeking Beijing’s recognition of two separate “entities” within a single China:

Since revising the Constitution in 1991, cross-strait relations have been designated as state-to-state, or at least special state-to-state relations, rather than internal relations under “one China” between a legitimate government and a rebel group, or a central government and a local government. So, you mentioned the Beijing government’s regarding Taiwan as a ‘rebellious province.’ This is completely inconsistent with historical and legal realities. 46

President Lee’s remarks indicated he had formally abandoned his previous adherence to a “one China” policy – even Taipei’s previous “one China” stance maintaining that Taiwan’s ROC government was the sole legitimate government of the entire Chinese nation. This contrasted earlier public remarks made by President Lee, who as recently as his May 20, 1996 inauguration declared “it is totally unnecessary or impossible to adopt the so-called course of ‘Taiwan independence’” and that Taipei would continue pursuing a course of “eventual national unification.” 47

Making matters worse, Lee used the Chinese phrase “guojia yu guojia (國家與國家)”, which could be translated into English as “nation-to-nation” or “country-to-country” in addition to “state-to-state,” the official translation offered by the Presidential Office after the interview. China immediately condemned the statement and during a

47 Shirley Kan, page 35, citing President Lee’s May 20, 1996 inaugural address.
telephone conversation with US President Bill Clinton on July 18, Chinese President Jiang Zemin said President Lee had “taken a dangerous step down the road of splitting the nation” by making the remarks.\(^\text{48}\) The fragile process of ARATS-SEF negotiations was once again sidelined indefinitely.

Transfer of Power in Taiwan

Another major event blamed for putting off cross-strait negotiations was Taiwan’s March 18, 2000 presidential election, which saw opposition Democratic Progressive Party candidate Chen Shui-bian earn a narrow victory amid a nasty split within the ruling Kuomintang camp.\(^\text{49}\) For the first time since both sides were split in 1949, the KMT was forced out of power in Taiwan, and China had to deal with a new leader whose party had openly advocated Taiwan independence before the 2000 campaign. During the campaign, Chen embraced a more centrist policy of not seeking to change the status quo, but this failed to assuage Beijing’s fears of a DPP administration, as evidenced by Premier Zhu’s angry warning to Taiwan voters on the eve of the election. The day after Chen was elected, Beijing’s Taiwan Affairs Office issued a brief statement saying Chen’s election “does not change the reality of Taiwan’s being a part of Chinese territory” and that Beijing would “listen to his words and observe his actions awaiting to see which direction he will take cross-strait relations.”\(^\text{50}\)

In a clear attempt to reduce cross-strait tensions, Chen used the occasion of his May 20, 2000 inauguration to announce a new policy later dubbed “four no’s and a


\(^{49}\) The KMT’s traditional support base was divided after former provincial governor James Soong Chu-yu split away from the party to run a maverick presidential campaign. Chen won 39 percent of the vote, while Soong took 37 percent and the KMT’s candidate, Lien Chan, garnered 23 percent.

not,” which included: no declaration of Taiwan independence; no change to the ROC’s national title; no attempts to incorporate President Lee’s controversial “state-to-state” position in the Constitution; no referendum on independence; and an additional promise that “abolition of the National Unification Council or the Guidelines for National Unification will not be an issue.”

While Chen declined to directly embrace a “one China” policy as demanded by Beijing, he did state in his inaugural address that he believed “leaders on both sides possess enough wisdom and creativity to jointly deal with the question of a future ‘one China’.”

These statements did not satisfy Beijing’s preconditions for resuming negotiations based on returning to a “one China” principle. Later on the same day of Chen’s inauguration, Beijing released a statement noting Chen’s promises not to seek independence or incorporate his predecessor’s controversial “two states” position into the Constitution. But Beijing was still adamant about not resuming negotiations with Chen’s new administration due to his refusal to directly return to a “one China” principle, dubbed “the touchstone of continuing to stubbornly promote a splittist policy of ‘Taiwan independence’.”

In public remarks three months after Chen’s inauguration, ARATS Secretary-General Zhang Jincheng made it clear Chen would have to clearly state a return to a “one China” principle before ARATS-SEF negotiations could resume.

**Negotiations Routed to Private Sector**

While the mainland would not re-start negotiations between ARATS and SEF, it did authorize private organizations and even corporations to conduct certain types of

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51 Shirley Kan, page 46, citing President Chen’s May 20, 2000 inaugural address. It is important to note that Chen’s “four no’s and a not” were based on the precondition that China would not launch a military attack against the island.

52 Shirley Kan, pp. 45-46, citing President Chen’s May 20, 2000 inaugural address.

negotiations with Taipei to continue the process of economic integration. For example in May of 1997, a new agreement was urgently needed to ensure continued shipping links between Taiwan and Hong Kong after the territory’s July handover to mainland China. But rather than conduct negotiations itself, ARATS instead authorized a private association of Hong Kong-based shipping firms to handle negotiations with Taiwan, which continued to be represented by the SEF. A similar pattern was repeated in aviation talks between Hong Kong and Taiwan during 1997 and again in 2002, where Hong Kong was represented by its two main airlines Cathay Pacific Airways and Dragonair, and Taipei was represented by a private association of Taiwan-based airlines. While the negotiating was ostensibly handled by the private sector, government officials from both sides, including the director of Taiwan’s Civil Aeronautics Administration, were permitted to take part in the discussions as “advisers.”

Successes with handing negotiations over to the private sector led to Beijing’s adopting a new policy of urging Taiwan to have private firms negotiate the terms for restoring direct cross-strait transportation, communications and commercial links. The mainland’s eagerness to restore the “three links” was evidenced by Vice Premier Qian Qichen’s generous October 2002 offer to set aside political disputes so that talks could proceed in the private sector. While Qian maintained that recognizing “one China” was still a precondition for political talks, he added that Beijing regarded the “three links” as an “economic issue” that did not deal with “one China.” As mentioned earlier, Vice Premier Qian even went so far as to drop Beijing’s demand

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54 “Hong Kong, Taiwan Said to be Nearing Deal on Air Pact,” *Taipei Times*, Taipei, June 5, 2002. During the 2002 negotiations, this writer frequently called Civil Aeronautics Administration Director Billy Chang Kuo-cheng to obtain updates on the progress of talks while covering the event for Hong Kong’s *South China Morning Post*. Mr. Chang, who spoke to reporters on his mobile phone during breaks, never concealed his participation in the talks. He also confirmed the Hong Kong side frequently stopped meetings to call government officials in Hong Kong, who were presumed to be briefing and receiving instructions from officials in Beijing.
that Taipei recognize direct transport links as “domestic routes” in favor of branding them “cross-strait routes.”

**ARATS, SEF Continue to Function**

Beijing’s efforts to transfer responsibility for dialogue and negotiations from ARATS and SEF to private sector organizations was met with skepticism from Taiwan’s government, although many critics on the island had long questioned the continued viability of SEF given Beijing’s refusal to resume talks with the organization. But many of these critics have failed to note that SEF and ARATS remain in constant contact with each other and continue to perform a functional role in line with the agreements and consensuses reached during 22 sessions of talks and negotiations lasting up to the 1998 Wang-Koo meeting. While these functions rarely make headlines, they remain important and could even be termed responsible for keeping cross-strait relations developing at a healthy pace. For example, the SEF and ARATS are authorized by their respective governments to perform simple notary services, such as verifying the authenticity of documents ranging from college diplomas to marriage certificates. SEF and ARATS also remain in charge of handling various disputes that commonly break out between private corporations and individuals on both sides, as well as what both sides call “sudden events” (“tufa shijian 突發事件”), such as accidents involving Taiwan tourists visiting the mainland or mainland fishermen working on Taiwan-registered boats, etc. People needing a variety of services, ranging from urgent travel documents to visit sick or dying relatives on both sides, seeking information on accidents or crimes involving loved ones, seeking legal consulting on cross-strait issues or merely checking on the status


of missing registered mail parcels, still direct their daily requests through ARATS and SEF. And most importantly for this research, the two organizations still function as clearinghouses for law enforcement bodies and courts on both sides of the Taiwan Strait by routing communications and assistance. These functions have not subsided as a result of ups and downs in political relations between Taipei and Beijing, as shown in the following tables:

**Table 1: SEF caseload summary, March 1991-June 2002**

<table>
<thead>
<tr>
<th></th>
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</thead>
<tbody>
<tr>
<td>Cultural</td>
<td>1,727</td>
<td>7,104</td>
<td>22,377</td>
</tr>
<tr>
<td>Economic</td>
<td>8,923</td>
<td>16,192</td>
<td>78,434</td>
</tr>
<tr>
<td>Legal</td>
<td>62,069</td>
<td>135,873</td>
<td>1,136,628</td>
</tr>
<tr>
<td>Travel</td>
<td>2,490</td>
<td>8,328</td>
<td>62,378</td>
</tr>
<tr>
<td><strong>Total:</strong></td>
<td><strong>75,209</strong></td>
<td><strong>149,772</strong></td>
<td><strong>1,299,777</strong></td>
</tr>
</tbody>
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**Table 2: SEF’s dealings with ARATS**

<table>
<thead>
<tr>
<th>Category of service</th>
<th>2002 (January-June)</th>
<th>2001 (entire year)</th>
<th>Total to present</th>
</tr>
</thead>
<tbody>
<tr>
<td>Registered mail inquiries</td>
<td>2,327</td>
<td>2,626</td>
<td>21,464 (5/1993-6/2002)</td>
</tr>
<tr>
<td>Evidence investigation</td>
<td>43</td>
<td>81</td>
<td>511</td>
</tr>
</tbody>
</table>
These statistics show that SEF and ARATS continue to handle a variety of tasks dealing with day-to-day developments in private, people-to-people relations. Documents and requests are being sent back and forth across the Taiwan Strait, and the volume of casework is steadily increasing. For example, from June 1993 to June of 2002, the mainland has sent almost twice as many document copies to Taiwan for verification (534,109) than Taiwan has sent to the mainland (294,599). These figures do not include requests for document verification submitted in Taiwan by individuals, which totaled 388,856 documents during the same period.

While face-to-face negotiations between ARATS and SEF were again stalled by President Lee’s “state-to-state relations” remarks in 1999, communications between the two organizations have continued in line with their respective functions. Neither ARATS nor SEF has released statistics detailing the volume of phone calls, facsimile messages and letters exchanged between the two organizations, most likely because the sheer volume of communications must be very high and thus difficult to precisely calculate. A review of press releases issued by ARATS and SEF between January 1999 and April of 2003 disclosed communications between both sides over at least 55 major issues, ranging from expressions of sympathy and condolence over natural disasters to demands for assistance with “sudden events.”

The actual amount of

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<tbody>
<tr>
<td>Handling cases of fishing disputes</td>
<td>23</td>
</tr>
<tr>
<td>Cases involving economic and/or trade disputes</td>
<td>63 (Jan.-May)</td>
</tr>
</tbody>
</table>


57 The press releases were listed or summarized on the web site of the SEF, at www.sef.org.tw, and the State Council’s Taiwan Affairs Office, at www.gwytb.gov.cn. According to the author’s review, ARATS issued 20 press releases regarding communications with SEF during this period, while SEF issued 35 such press releases. The term “major issues” excludes seemingly insignificant events, such
phone calls, facsimile messages and letters exchanged must be far higher, since numerous communications were certainly exchanged over individual incidents. Other communications were considered too routine to be mentioned in press statements. For example, as shown in Table 2, a total of 3,208 “legal documents” having to do with cases of law enforcement cooperation were sent from SEF to ARATS in the year 2001 alone. In 2001, ARATS Deputy Secretary-General Li Bingcai referred to the volume of communications with SEF when giving a speech marking the organization’s 10th anniversary. In his remarks, Li said ARATS and SEF had exchanged more than 7,000 letters and facsimile messages while dealing with over 700 “sudden events” over the past decade.58

**Important Terms and Concepts**

Before moving into a specific examination of cooperation between law enforcement authorities in Taiwan and mainland China, it is necessary to review the meaning of terms and concepts that commonly appear in research literature about international police cooperation in general. Governments on both sides of the Taiwan Strait, as well as researchers and academics, refrain from using the sensitive terms “international” or “transnational” when discussing issues of mutual law enforcement cooperation. However, given the reality that Taiwan and mainland China are governed separately, concepts and theories regarding “international” and “transnational” cooperation will still be considered valid for the sake of this research project. As mentioned previously, this project will avoid reviews about the sovereignty dispute between Taipei and Beijing in favor of analyzing the substance

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58 Taken from speech delivered by ARATS Deputy Secretary-General Li Bingcai at celebrations marking 10th anniversary of ARATS, re-printed on web at: [http://www.unn.com.cn/BIG5/channel2567/2594/2598/200112/17/139014.html](http://www.unn.com.cn/BIG5/channel2567/2594/2598/200112/17/139014.html)
and meaning of cross-strait law enforcement cooperation. But even if the dispute between Beijing and Taipei is set aside, there is already plenty of controversy and contention regarding the definition and usage of terms defining and describing issues of crime and punishment that cross between jurisdictions and national boundaries.

The term “international” is commonly used in news media reports covering criminal actions that cross international borders, as well as efforts by law enforcement authorities to combat and prevent them. But works of academic research regarding criminality prefer the term “transnational” over “international” because the latter implies a state-centered approach to general issues of international relations associated with the theoretical approach known as “Realism.” According to a standard textbook definition, the approach of Realism “analyzes all international relations as the relations of states engaged in the pursuit of power. Realism cannot accommodate any non-state actors within its analysis.”59 And according to Harvard University international relations scholar Joseph Nye, Realism assumes that “the central problem of international politics is war and the use of force, and the central actors are states.”60

In contrast with these assumptions, the term “transnational” is used by academics “in order to assert forcefully that international relations are not limited to governments” and should also include consideration of the “transnational actor,” defined as “any non-governmental actor from one country that has relations with any actor from another country or with an international organization.”61 In plain terms, “transnational” addresses relations and interaction between private persons and

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61 Baylis and Smith, page 358.
groups, as opposed to more narrowly defined relations and interaction between diplomats representing central governments. The term can even refer to relations and interaction between government agencies whose responsibilities are mostly domestic. As Dr. Nye put it, “interactions across state borders outside the central control of the foreign policy organs are called transnational relations,” and these relations include crime, such as smuggling or human trafficking, as well as efforts by government authorities to deal with criminal acts. Therefore the term “transnational” is thought to more adequately address the issue of criminals whose activities cross national borders, as well as efforts to prevent and punish such criminal activities.

Dr. James Sheptycki, a sociology professor at the UK’s University of Durham and author of several works regarding transnational crime and policing, prefers the term “transnational policing.” In the introduction to his book Issues in Transnational Policing, Sheptycki said the term “transnational policing” was “a recent conceptual innovation” and that the “phenomena to which it refers have not been comprehensively researched.” However, Dr. Sheptycki stated his preference for the term “transnational” was part of larger efforts by scholars to “overcome the limitations of the vocabulary of international relations” that was still rooted in Realism and its traditional state-centered approaches. Perhaps even more importantly for purposes of this research, Sheptycki also made a clear distinction between national police forces and foreign ministries or other central government-level foreign policy institutions of sovereign states: “While it might be true to say that the public police are representatives of the state’s sovereign authority within the territory of a given state, they are not themselves sovereign representatives

62 Nye, page 194.
64 Sheptycki, page 4.
in the transnational sphere.\textsuperscript{65}

According to Michael Fooner, a former US delegate to the United Nations Congress on Crime and author of \textit{Interpol: Issues in World Crime and International Criminal Justice}, issues of criminal acts crossing national borders, known as “transnational criminality,” have been recorded by historians since ancient times, such as bandits who robbed people traveling between city-states in ancient Greece. However, while the term “transnational crime” was not used until the late 20\textsuperscript{th} Century, the issues brought about by transnational crime and its consequences first became a subject for serious academic observation and discussion in late 19\textsuperscript{th} Century Europe, an era when “impressive developments in science and technology,” combined with transportation links connecting European cities and increasing economic interaction between sovereign states made transnational crime a growing problem on the continent:

“Railroads and the rapid advances in transportation technology enabled criminals to go farther and faster. Furthermore, the techniques of applied chemistry and physics provided criminals with advanced methods for forging documents, devising burglaries, making false money, defrauding victims, and killing people by stealth. Law-abiding society was falling behind in this contest with law-breaking sub-societies.”\textsuperscript{66}

It was also during the 19\textsuperscript{th} Century that the modern concept of the police force and policing came into existence in several European countries. According to Dr. Sheptycki, the most commonly accepted definition of “police” was first established by Egon Bittner, who in 1970 wrote that during the 19\textsuperscript{th} Century, European governments gradually moved away from “political authority based purely on threats or the

\textsuperscript{65} Sheptycki, page 7.  
exercise of physical force towards one based on voluntary performances of the
governed.” As ordinary citizens stopped carrying weapons to defend themselves
and expected the government to maintain law and order, it became necessary “to
invest an institution with the power to use coercion in order to ensure social order
with a minimum of violence. That institution is the ‘public police’ and its creation
follows the logic of the civilizing process.”

While the concept of policing is thus well-defined, both Fooner and Sheptycki
wrote that regardless of the police force’s character as a state institution, policing
implies an inherently local operation, rather than a force strictly commanded from the
top down. For this reason, the concept of “world policing,” implying close
cooperation between law enforcement agencies in different countries or sovereign
jurisdictions, may be a contradiction in terms:

The word ‘police’ derives from the Greek word ‘polis,’ meaning a ‘city’,
and traditionally refers to a body of civil servants who have the job of
maintaining order and enforcing the laws in a city or state. Thus
according to its historical origin, ‘police’ is typically confined to an
institution of localities, which sometimes may be structured nationally.
But even then, tradition takes over and the national organization is
usually organized into local units of administration.

Despite the local character of domestic police forces that evolved in Europe
during the 19th Century, authorities around the world soon became increasingly aware
of the problems caused by transnational criminals. This process was accelerated in
the late 19th Century by the development of key crime investigation technologies.

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68 Sheptycki, page 8.
69 Fooner, page 28.
70 According to Fooner (page 30), the first photograph of a criminal suspect was taken in Brussels,
Belgium in 1843, and by the year 1874, police in Paris, France had already established an “ongoing
file” of criminal suspect photographs. Such a system was replicated in most major European cities by
the end of the century. Fingerprint analysis technology was also developed around this time and
became standard procedure in criminal investigations by the early decades of the 20th Century.
such as photography and fingerprint analysis.\textsuperscript{71} While these helped police investigate crimes and arrest criminals, development of other technologies created even more opportunities for transnational criminal activity.

One of the earliest scholars to recognize the importance of transnational crime was Professor Franz von Liszt of Berlin University. According to a translation of Dr. Liszt’s introduction to an 1893 textbook on comparative legislation, he described the late 19\textsuperscript{th} Century as a time in which “the professional thief or swindler feels equally at home in Paris, Vienna or London, when counterfeit (Russian) rubles are produced in France or England and passed in Germany, when gangs of criminals operate continuously over several countries.”\textsuperscript{72} Citing the research of German scholar Kurt Schaefer, Fooner noted that police authorities in different European countries at this time began recording similar observations on the “typical characteristics of transnational crimes and offenders,” including “multiple appearances, effective planning, great mobility, and the creation and utilization of masking and dissembling methods. They perceived the kind of person who was involved in such criminal activity as usually a sophisticated, enterprising individual, often working in a well-organized group, with specific goals.”\textsuperscript{73}

Today, the international criminal still frequently matches this description, even though much of the technology employed in transnational crime has advanced far beyond the imaginations of 19\textsuperscript{th} Century police officials who first conceptualized transnational crime and law enforcement cooperation. The principles behind transnational crime, as well as motivations to commit transnational crimes, remain the same: “Transnational offenders often exploit the legal tradition of sovereignty of

\textsuperscript{71} Fooner, pp. 30-31.
\textsuperscript{72} Fooner, page 27.

36
nations, and, as a result, national boundaries frequently provide them with an effective means for avoidance of the law or for escape.”

One of the most common catchphrases used in news media reports is the seemingly self-explanatory term “international crime.” But it is especially interesting to note that there is in fact no commonly accepted definition of “international crime” per se in academia or international law, even though international gatherings of world leaders and law enforcement officials routinely refer to fighting international crime. According to Fooner, the lack of a standard definition of “international crime,” both in the academic sense and in major international agreements, has long been noted by scholars and even by the International Criminal Police Organization (INTERPOL), the primary international body dedicated to preventing and fighting transnational crime. Fooner wrote that there cannot be a clear definition of “international crime” until a body of international criminal law is put into practice by the international community. Even so, INTERPOL has clearly been able to work around this, since “even if there is doubt about international criminal law, there is no doubt about international criminality.”

Fooner noted that INTERPOL even took the liberty to provide its own set of answers regarding this obvious ambiguity, outlined in a monograph published in 1973 to commemorate the 50th anniversary of INTERPOL:

There is no international penal code or law defining specific acts as international crimes and providing sanctions for them... In practice, the term 'international offense' means any criminal activity concerning more than one country, either because of the nature of the crime committed, or because of the identity of behavior of the criminal or his accomplices... A criminal who has committed offenses of a local nature... in several countries... is an itinerant criminal and therefore an international criminal. This is completely independent of the

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74 Fooner, page 26.
75 Fooner, page 37.
seriousness of the offense.\textsuperscript{76}

Fooner took special note that INTERPOL has always avoided references to the term “international crime” within its Constitution and by-laws, choosing instead to use terms like “mutual assistance between all criminal police authorities” and “establish[ing] and develop[ing] all institutions likely to contribute effectively to the prevention and suppression of ordinary law crimes,” of which Fooner states “mutual assistance” is the most significant phrase.\textsuperscript{77} INTERPOL’s 50\textsuperscript{th} anniversary monograph even clearly explained that the term “international crime” was “really only a popular phrase… denoting something which both police and legal theorists agree exists, objectively even if not in legal theory.”\textsuperscript{78}

These definitions and background explanations behind commonly held concepts of transnational criminality and police cooperation are certainly complicated. But it is clear that international organizations dedicated to promoting cooperation, especially INTERPOL, work to simplify the process or even work around potential major problems, such as the lack of legally binding international criminal law. But when the issue of “transnational” crime and law enforcement cooperation is applied to the case of the Taiwan Strait, the issue of terms and definitions gets even more complicated due to the political controversy surrounding Taiwan’s status versus the mainland. Any attempt by Taiwan to define cooperation with the mainland as “transnational” would certainly result in complete cessation of all assistance from Beijing.

\textsuperscript{76} Fooner, page 37.
\textsuperscript{78} Fooner, pp. 37-38.
Terminology and the Taiwan Strait

As troublesome as the cross-strait relationship can often be, it is very significant that scholars working in the Chinese language have come up with creative alternatives to the terms “international” and “transnational” when writing research papers on cross-strait crime and law enforcement cooperation. In place of the suffix “-national,” implying statehood or nationhood, these works have taken advantage of vague concepts in Chinese, such as “qu” (區) meaning “zone,” “area,” or “region,” and “jing” (境), meaning “border” or “boundary,” to come up with unique terminology that describes the Taiwan Strait situation without offending either side.

For example, a group of Taiwan scholars headed by Central Police University professor James Shen Tao-chen creatively exploited the term “qu” by using the phrase “kuaqu fanzui” (跨區犯罪), which could be translated as “inter-regional crime,” “trans-zonal crime” or perhaps more literally, “inter-area crime.” Besides avoiding the use of “nation” or “state,” this terminology also neatly adheres to current Taiwan law governing the conduct of relations between Taiwan and mainland China, namely the 1992 Statute Governing Relations Between the People of the Taiwan Area and the Mainland Area. As mentioned in Dr. Shen’s research project, this legislation terminated Taiwan’s longstanding claim of being China’s sole legitimate government in favor of legally dividing Chinese territory into two “areas” (地區), including the “Taiwan area” (“Taiwan diqu 台灣地區”) controlled by Taipei, and the “mainland area” (“dalu diqu 大陸地區”) governed by Beijing. Thus police officials and scholars in Taiwan can make reference to interaction between these two “areas” without violating Taipei’s official stance.

80 Analysis and Evaluation of Possible Models for Cross-Strait Crime-Fighting Cooperation, pp. 63-64.
In a separate research paper, Central Police University professor Mon Wei-teh expressed preference for the term “kuajing fanzui” (“跨境犯罪”), the common Chinese translation for the English concept of “transnational crime.” However, even though in English this term contains the suffix “-national,” in Chinese the term “jing” merely refers to borders or boundaries. Thus the concept “kuajing” can merely vaguely refer to actions “crossing boundaries,” rather than specifying events occurring between sovereign states or nations (although “kuajing” can also have this meaning). Therefore in Chinese, the term “kuajing” sounds less potentially controversial than “kuaguo” (“跨國”) the other common translation of the term “transnational” which contains the word “guo” (“國”) meaning “country,” “nation” or “state.”

Perhaps the vaguest and least sensitive Chinese term frequently used by both sides, and especially by mainland China, is the concept of “haixia liang’an” (“海峽兩岸”), which is normally translated into English as “both sides of the Strait” or “cross-strait” in reference to the Taiwan Strait. The latter part of this phrase, “liang’an,” is commonly used in mainland China and on Taiwan whenever references are made to the bilateral relationship between Taiwan and the mainland, such as the concept of “liang’an guanxi” (“兩岸關係”), usually translated into English as “cross-strait relations.” While the phrase “cross-strait relations” certainly makes better sense in English, the term “liang’an guanxi” literally means “bicoastal relations,” in reference to the two coasts on either side of the Taiwan Strait. This term is very vague and, quite conveniently for both sides, politically neutral. A good example of the term’s convenience is the name of ARATS, the Association For Relations Across the Taiwan Strait (haixia liang’an guanxi xiehui, 海峽兩岸關係協會), and its counterpart organization in Taipei SEF, the Straits Exchange Foundation (haixia jiaoliu jijinhui, 海峽交流基金會). Besides their ostensibly private sector
status as an “association” and a “foundation,” both organizations have also made use of “Taiwan Strait” or “Straits” in their names, conveniently avoiding references to their respective governments or statehood.

The term “liang’an” is commonly used in both academic research and general news media publications in mainland China, whose government recognizes neither the legal validity of Taiwan’s formally classifying both sides into “areas” nor the legal jurisdiction of Taiwan’s law enforcement authorities and courts. Therefore it is common to see phrases like “liang’an hezuo daiji fazui” ("兩岸合作打擊犯罪"), literally meaning “bicoastal cooperation in fighting crime,” or “liang’an hezuo zhengzhi fazui” ("兩岸合作整治犯罪"), literally meaning “bicoastal cooperation in criminal punishment,” in mainland Chinese literature on this subject.81

Perhaps the best example of how the phrase “liang’an” can help both sides avoid getting mired in political disputes was the deliberate use of “liang’an” by former Chinese Vice Premier Qian Qichen as part of Beijing’s attempts to start negotiations on re-opening direct transportation links between mainland China and Taiwan. In 2002, the Chinese government had proposed that Taiwan recognize cross-strait transport links amounted to “domestic routes” within a single country. After Taiwan rejected this proposal due to objections to the word “domestic,” Vice Premier Qian granted an interview to Taiwan’s United Daily News in which he proposed replacing the sensitive phrase “domestic routes” ("guonei hangxian, 國內航線") with the politically neutral term “cross-strait routes” ("liang’an hangxian, 兩岸航線"). While negotiations failed to take place for other reasons, Vice Premier Qian’s change in wording was immediately welcomed by top officials in Taipei, including Transport

Minister Lin Ling-san and Chiou I-jen, secretary-general of the National Security Council under Taiwan’s Presidential Office. Mr Chiou bluntly replied “yes, I think so” when asked if he believed the change amounted to “a goodwill gesture more likely to be accepted by Taiwan’s government”\(^\text{82}\).

The governments of both mainland China and Taiwan have also at times made use of vague language to accommodate substantial law enforcement cooperation with each other, even at early stages of contacts when both sides did not recognize each other’s legal authority. For example, the “Kinmen Accord” signed on September 12, 1990 by representatives of Red Cross societies representing both sides, established a procedure for repatriating illegal migrants. However, the exact wording of the agreement referred to “residents who have entered the area of the other side in violation of related regulations.” While the Kinmen Accord made reference to “Red Cross organizations representing both sides of the Strait,” the agreement used politically neutral terms like “one side” and “the other side” (\(\text{yifang} \text{ and } \text{duifang}, \text{ 一方, 對方} \)), or “area” (\(\text{duiqu}, \text{ 地區} \)) rather than referring to Taiwan, mainland China or the formal titles of both respective governments.\(^\text{83}\)

**Law Enforcement Cooperation in Theory and Practice**

Police forces in European countries began realizing the urgent need to cooperate with each other in the late 19\(^\text{th}\) Century. But depending on the definition, cooperation between states or independent legal jurisdictions dates back to ancient times. According to scholarly research, the very first extradition treaty was signed in 1280 B.C., between Egyptian Pharaoh Ramses II and Hittite King Hattusli III, which


obligated each side to turn over criminals under certain conditions. Legal assistance between courts can be traced back as early as the 3rd Century B.C., when the Roman Empire permitted Roman judges reviewing cases involving non-Roman defendants to consider evidence, such as judicial interrogations, from defendants’ home territories. For centuries, issues of cooperation and extradition were mostly political matters resolved bilaterally by governments on a case-by-case basis. But following developments of the 19th Century, in 1874 Belgium became the first country in the modern era to pass an extradition law that also provided a legal basis for various forms of cooperation with police and courts in other countries, such as the turning over of information and items recovered during searches and seizures. This law was quickly emulated in various countries as the need for cooperation increased. But many countries have also cooperated with each other voluntarily, and precedents for “international usage” and “international custom” have been established over the years that often serve as standards for law enforcement agencies and courts to adhere to even in the absence of bilateral or multilateral treaties or agreements. Of these, “international custom” has been clearly defined as “a clean and continuous habit of doing certain actions (which) has grown up under the aegis of the conviction that these actions are, according to International Law, obligatory or right.” While the concept of “international usage” also reflects standard practices of behavior by law enforcement authorities and courts, “usage” does not imply rights or obligations under international law.

84 Analysis and Evaluation of Possible Models for Cross-Strait Crime-Fighting Cooperation, page 14. The editors were citing the research of Japanese international law scholar Tadashi Morishita.
85 Analysis and Evaluation of Possible Models for Cross-Strait Crime-Fighting Cooperation, page 15. The editors cited works of Morishita and Taiwan scholar Wu Ching-fang, who published a treatise on the basic principles of international legal assistance.
86 Analysis and Evaluation of Possible Models for Cross-Strait Crime-Fighting Cooperation, page 21. The editors compiled their definition of “international custom” from international conventions on hijacking and hostage-taking signed in the 1970s.
In the modern era, cooperation between police and courts in separate jurisdictions is usually termed “international legal assistance in criminal matters,” which in turn has been divided into three main categories: “minor assistance,” “broad assistance” and “broadest assistance.” Of these three, “minor legal assistance” is the most commonplace and least controversial. “Minor assistance” generally includes preparing and turning over results of interviews or interrogation sessions with suspects, witnesses, expert examiners or appraisers; seizing, verifying and turning over documentary or material evidence; and providing intelligence related to criminal cases or potential criminal activity. The category of “broad legal assistance” includes extradition of fugitives and wanted suspects in addition to “minor assistance” services. The category of “broadest legal assistance” includes the transferal of proceedings in criminal matters and the execution of punishment (such as prison sentences) as ordered by courts in other countries, in addition to the full range of “broad assistance” and “minor assistance” services.\(^8\)

Besides these three categories, definitions of legal assistance have also been divided between “international” and “regional” or “inter-jurisdictional” assistance, depending on whether cooperation takes place between two separate states or between different regions or jurisdictions within a single state that possess separate or unique legal systems. Moreover, international cooperation has also been classified into “classical forms of international legal assistance” and “new forms of international legal assistance.” Of these, “classical assistance” is usually associated with the services of “minor assistance” and extradition of suspects and fugitives. The term “new forms of international assistance” refers to a relatively new phenomena of sovereign states agreeing to give up their sovereignty by transferring proceedings in

criminal matters or executing punishments handed down by courts in other countries, which are the two elements of “broadest” assistance. An example of “new forms of international assistance” would be the series of agreements between European countries to transfer foreign prisoners to their home countries for completion of prison sentences.\footnote{Analysis and Evaluation of Possible Models for Cross-Strait Crime-Fighting Cooperation, pp. 11-17. Agreements are exemplified by the comprehensive European Convention on International Validity of Criminal Judgments, adopted by the European Community in 1970.}

As stated in the research of Fooner and Sheptycki, European police forces quickly became aware of the importance of transnational crime in the late 19th Century, and it wasn’t long before efforts were undertaken in Europe and around the world to seek effective action against international criminals, even in spite of a strong tradition of national sovereignty dating back to the Treaty of Westphalia in 1648. As early as 1888, delegates to the International Criminal Association’s congress meeting in Germany recommended governments take more effective action to cooperate against international crime. Similar suggestions were made at police congresses in South America as early as 1901, and by 1905, an “International Police Convention” establishing offices for police to exchange information on transnational criminals was signed by local police authorities across South America. That same year, representatives of the International Criminal Association met in Hamburg, Germany and passed a resolution urging “coordination” among national police forces and asking their respective directors to “request governments to organize an international conference to develop an agreement on police forces working together.”\footnote{Fooner, page 31.} While no action was taken as a result, it was clear that governments of sovereign states needed to cooperate with each other, even at limited expense to their sovereignty, to prevent transnational criminals from gaining the upper hand:

A distinctive group of police officers had discovered collectively that a
new hazard was emerging to endanger the communities of the world against which the communities were without protection, because police jurisdictions had strict limits and national sovereignty was the rule among civilized nations. It was out of the question that nations would pool resources to fight world crime with a supranational force.  

The first major breakthrough in this process came in 1914, when Prince Albert of Monaco invited more than 300 delegates from 15 countries in Europe, Central America, North Africa and the Near East to attend the “First International Criminal Police Congress,” where delegates resolved “it was desirable to have direct official relations among the police forces of the various nations, for investigations to suppress crimes.” While resolutions were passed at the meeting preparing for more substantial cooperation, plans to work out details for implementation at a second congress two years later were delayed by World War I.

The idea was revived by Austrian Federal Minister of the Interior Johann Schober, who in 1923 organized the “Second International Criminal Police Congress” in Vienna with the intention of continuing the work left off from Monaco. It was at this meeting that delegates established the “International Criminal Police Commission (ICPC),” the predecessor to what eventually became the International Criminal Police Organization (INTERPOL). After agreeing that membership in the ICPC should be open to all police forces willing to join, the commission’s headquarters was set up in Vienna, since Austria enjoyed a central location among most member states and the Austrian government agreed to “provide the fledgling organization with financial help and free office space for its headquarters.” The ICPC was directed and staffed by Austrian officials until 1930, when delegates to a congress decided to elect officers by

91 Fooner, page 31.  
92 Fooner, page 32.  
93 Fooner, page 32.  
94 Fooner, page 48.
majority vote instead of continuing to have them nominated by the Austrian police. By this time, ICPC’s Vienna headquarters had established a secretariat “with specialized departments for passport forgeries, fingerprinting, criminal records and counterfeiting,” and was also publishing a monthly journal. In 1935, the ICPC also set up its own radio network. By the year 1938, when the United States joined the organization, ICPC’s membership had reached 34 countries, including all European states (except the Soviet Union) and many countries in Asia and the Americas.\footnote{Fooner, page 48.}

While the ICPC was an effective organization that set standards for law enforcement cooperation still in use today, its authority was undermined after Nazi Germany annexed Austria in 1938. Four years before the annexation, ICPC member states had voted to make the director of Vienna police the concurrent head of the ICPC, as part of efforts to prevent Nazi Germany from gaining influence over the organization. But after Austria was annexed, Germany dispatched personnel to take over the ICPC headquarters and claimed leadership over the organization, even to the point of moving operations to a new headquarters in Berlin in 1941. This turn of events effectively discredited the ICPC and World War II has since been “considered a period in which the organization was defunct.”\footnote{Fooner, pp. 49-50.} In 1946, representatives of 17 countries met in Belgium to revive the organization and it was decided the new ICPC would be headquartered in Paris, France. In 1955, when membership had grown to 50 countries, the ICPC’s name was changed to the International Criminal Police Organization (INTERPOL) “in the belief that this gave the organization a more permanent-sounding identity.”\footnote{Fooner, pp. 50-51.} INTERPOL moved to a new headquarters in the suburbs of Paris in 1966, where it remains today.

Over the years of its operation, INTERPOL has basically followed the principles
and objectives set out in its revised Constitution adopted in 1956. According to Article 2 of its Constitution, INTERPOL works “to ensure and promote the widest possible mutual assistance between all criminal police authorities within the limits of the laws existing in the different countries, and in the spirit of the ‘Universal Declaration of Human Rights.’” INTERPOL also works “to establish and develop all institutions likely to contribute effectively to the prevention and suppression of ordinary law crimes.”

Besides these carefully worded objectives, INTERPOL strictly adheres to operating principles based around the concepts of sovereignty (i.e., “within the limits of the laws existing in the different countries”), functional integrity (restricting participation only to criminal police authorities responsible for “ordinary law crimes”), universality (providing assistance to all criminal police authorities, regardless of member states’ political nature, and even assisting non-members), flexibility (lack of comprehensive rules governing processes and mechanisms of cooperation), adherence to the 1948 Universal Declaration of Human Rights (concern for civil rights and privacy guarantees), equality (each INTERPOL member enjoys equal status regardless of size, seniority, etc.), and concern with prevention and prosecution of “ordinary law crimes,” meaning acts ranging from murder to theft and fraud that are considered illegal under criminal laws of all countries.

Underlying these working principles is a commitment to avoiding all issues having to do with politics. As stated in the Constitution’s Article 3, “it is strictly forbidden for the Organization to undertake any intervention or activities of a political, military, religious or racial character.” Finally, INTERPOL has established a standard of operations under which individual member states establish their own “national central

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99 Fooner, pp. 38-40.

100 Article 3, General Provisions, INTERPOL Constitution.
bureaus,” known as NCBs for short, which function as clearinghouses relaying information between domestic law enforcement and court institutions and INTERPOL member states seeking assistance. The idea was to make cooperation easier, since officials in one country may not know which counterparts they should contact in other countries.

The precedents established by INTERPOL have not only set a standard for international police cooperation. In many ways, cooperation between Taiwan and mainland China resembles the tactics used by INTERPOL, although it uses different names and capacities. As will be reviewed in detail later on in this research project, law enforcement authorities in Taiwan and the mainland have frequently routed their requests for assistance through SEF and ARATS, which both have legal departments specializing in such cases that function as de facto “NCBs” representing both sides.

While Taiwan was ejected from INTERPOL in 1984 as part of China’s preconditions for joining the organization, Taipei has continued to regularly pass requests for INTERPOL assistance through third parties, usually Japan’s international criminal police authorities.  

At this point, Taiwan’s ejection from INTERPOL and the island’s subsequent relationship with the organization is worthy of mention. Under the organization’s Constitution, applicants seeking INTERPOL membership need approval from at least two-thirds of delegates to the organization’s annual General Assembly, and there is no provision setting qualifications for expelling a member state. Taiwan’s National Police Administration, the national police force under the supervision of the Interior Ministry, joined INTERPOL in 1962, at a time when mainland China was still largely isolated from the international community. But at the INTERPOL General

\[101^{\text{Analysis and Evaluation of Possible Models for Cross-Strait Crime-Fighting Cooperation, page 80.}}\]

\[102^{\text{According to Taiwan’s Criminal Investigation Bureau, the island began participating in INTERPOL in 1961. See CIB’s INTERPOL web page at: http://www.cib.gov.tw/cib50000/55200.htm.}}\]
Assembly of 1984, Beijing applied for membership “under circumstances that were unprecedented in INTERPOL’s history,” demanding that it be given the sole right to represent China and that Taiwan’s representatives be expelled.\(^{103}\) The request prompted a major controversy among the delegates, who wanted to admit Beijing yet didn’t want to expel Taiwan. After several rounds of deadlocked voting, Beijing’s application was accepted, although no vote was held to specifically eject Taiwan from the organization. According to Fooner’s history of INTERPOL, this move effectively “vacated” Taiwan’s membership without a vote to eject the island from the organization, fueling further controversy:

This seemingly untoward procedure and its results aroused objections and challenges among the members, who felt that it was a violation of the Constitution and an unwarranted submission to the political agenda of the People’s Republic of China in its outside rivalry with Taiwan. The delegates found no fault with Taiwan as a member of INTERPOL and argued, furthermore, that to vacate its membership was tantamount to a political act by the organization. The protests led to a decision to have the Executive Committee study the problem and try to find an appropriate solution.\(^{104}\)

While Taiwan was barred from INTERPOL participation, in actual practice it has continued interaction with INTERPOL by routing communications through third parties, mostly Japan. According to the research project headed by Dr. Shen of Taiwan’s Central Police University, cooperation with INTERPOL is still legally mandated by the Foreign Court Requests Assistance Act, promulgated in April 1963 to accommodate Taiwan’s accession to INTERPOL. Under this law, Taiwan still maintains relevant units within law enforcement and court agencies responsible for coordinating all requests and replies with INTERPOL.\(^{105}\) According to information

\(^{103}\) Fooner, pp. 66-68.
\(^{104}\) Fooner, page 68, citing resolutions of the 1984 INTERPOL General Assembly.
\(^{105}\) Analysis and Evaluation of Possible Models for Cross-Strait Crime-Fighting Cooperation, page 80.
released by the Criminal Investigation Bureau, Taiwan maintains a NCB that still cooperates with INTERPOL despite Taiwan’s lacking membership. Interestingly, Taiwan and mainland China have indirectly communicated their legal assistance needs to each other through INTERPOL before SEF and ARATS were established. According to Dr. Shen’s research, all “minor legal assistance” between Taiwan and other countries is mandated by the Foreign Court Requests Assistance Act. But on July 8, 1992, the Judicial Yuan, Taiwan’s highest government authority operating the judicial branch of government, issued a decree ruling that the Foreign Court Requests Assistance Act was “not applicable” to requests for assistance from the mainland, since “the mainland area does not belong to (the category of) foreign courts.”

While this ruling removed the previous legal basis for cooperation, scholars including Dr. Shen have determined the legal basis for cross-strait cooperation was provided by the April 1992 Statute Governing Relations Between People of the Taiwan Area and the Mainland Area, which states that judicial authorities in Taiwan may deal with requests for legal assistance from the mainland either by routing them through the Mainland Affairs Council or designated “private groups,” meaning the SEF. Thus Taiwan’s criminal investigation authorities, as well as courts, retain a legal basis for cooperating with counterparts in mainland China through the SEF and ARATS, rather than working through INTERPOL via Japan. However, the same executive and judicial branch agencies in Taiwan that work through INTERPOL also provide similar cooperation to mainland Chinese counterparts via the SEF.

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106 According to the Taiwan Criminal Investigation Bureau’s web site, “Even though we have no seat in Interpol, we still keep a good relationship with other countries, and willingly assist and cooperate with INTERPOL members to combat crimes.” See http://www.cib.gov.tw/cib50000/55200.htm.
108 Statute Governing Relations Between the People of the Taiwan Area and the Mainland Area, Article 8.
Cross-Strait Law Enforcement Cooperation

Cooperation between law enforcement and judicial authorities in mainland China and Taiwan can be divided into three main stages, starting with indirect contacts through overseas subsidiaries of state-owned corporations, INTERPOL and third parties (mainly Singapore), moving on to direct contacts between ARATS and SEF that highly resemble international dealings through INTERPOL, and graduating to the current system combining ARATS-SEF interaction with occasional direct communication between law enforcement personnel. The very first negotiations related to criminal activity took place as early as 1986, when state-owned airlines from both sides met in Hong Kong to negotiate the return of a hijacked Taiwan airliner and its crew. Contacts were upgraded to Red Cross societies representing both sides, who signed the landmark Kinmen Accord in 1991 providing for deportation of illegal migrants and suspects wanted in connection with criminal cases. By 1992, SEF and ARATS had taken over negotiations on issues of cross-strait legal assistance, as well as a central role in coordinating the legal assistance itself. By 1996, direct contacts were opened between law enforcement authorities on both sides through the means of informal seminars and even direct communications, such as telephone calls and face-to-face meetings while transferring migrants and fugitives.

Since the late 1980s until the present, cross-strait law enforcement cooperation has been particularly effective in five main aspects, including the return of illegal migrants, the arrest and deportation of wanted suspects or fugitives, dealing with cross-strait hijacking incidents, ensuring the safety and security of Taiwanese living in the mainland, and the organizing of occasional meetings of law enforcement personnel. At various times, cooperation in one field has sometimes been stronger than in others. But combined, efforts in all of these aspects demonstrate that
cooperation has gradually grown stronger, regardless of ups and downs in political relations between Taipei and Beijing.

**Initial Contacts**

It was quite remarkable that the first time both sides sat down to talk with each other since 1949 occurred as a result of a criminal act, namely the May 3, 1986 hijacking of a Taiwan civilian aircraft to mainland China. On that day, Wang Hsi-chueh, captain of a China Airlines Boeing 747 cargo flight from Bangkok to Hong Kong, commandeered the plane as it prepared to land at Hong Kong and set a new course for Guangzhou airport, just across the border in mainland China’s Guangdong province. Upon landing, Wang requested asylum in the mainland and said he had committed the act so he could be see his elderly father again before he died. But the flight’s two other crew members, Tung Kuang-hsing and Chiou Ming-chih, wanted to return to Taiwan. Wang Hsi-chueh’s request for asylum was granted, but in a departure from the past, Chinese authorities held the plane at Guangzhou’s Baiyun Airport pending arrangements to return it, along with Tung and Chiou, back to Taiwan.

According to reports published that year in the mainland’s *People’s Daily* newspaper, the Civil Aviation Administration of China (CAAC), which at the time ran the county’s sole airline, sent a telex to China Airlines’ Taipei headquarters on the day the incident occurred asking the airline to “dispatch personnel to Beijing as soon as possible for discussions with us regarding issues of dealing with the aircraft, its cargo

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109 The all-cargo Boeing 747 belonged to Taipei-based China Airlines (CAL), which at the time was majority owned by Taiwan’s government and displayed the ROC flag on aircraft tail sections in line with CAL’s status as Taiwan’s “flag carrier.” As part of efforts to improve business and avoid political constraints, the airline has since begun selling shares to the private sector and no longer displays the flag.

110 Wang Hsi-chueh, also known as Wang Xijue for the mainland-style spelling of his name, was later rewarded with high positions in the General Administration of Civil Aviation in China and a subsequent nomination to the Chinese People’s Political Consultative Conference, the mainland’s highest advisory body comprised of non-Communist Party members. Exactly how Wang managed to take control of the aircraft remains the subject of widespread speculation.
and other crew members.\(^{111}\) A second telex was sent on May 11, after the Taiwan side declined to give a direct response,\(^{112}\) inviting China Airlines to choose another location for talks on returning the plane and crew if Taiwan found it “inconvenient” to send personnel to Beijing.\(^{113}\) While the mainland clearly preferred to have the airline send personnel to Beijing for direct talks on returning the aircraft and crew members, the message also indicated the mainland side was willing to be practical in light of Taipei’s ban on negotiations with Beijing:

> We made it clear early on this is only a matter of business discussions between two private civilian airlines and does not have anything to do with political issues. As long as there is to be a transfer, matters related to the transfer should be directly and responsibly handled by the two involved sides in order to ensure the safe return to Taipei of the aircraft and crew members willing to return to Taiwan.\(^{114}\)

While the *People’s Daily* reports did not specify how contact was eventually made, talks finally took place at Hong Kong’s Deepwater Bay Country Club for three days from May 17-20. The talks were held between managers of both airlines’ Hong Kong branches, who were joined by the chief engineer from CAAC’s Beijing headquarters and a special assistant to China Airlines’ general manager. After a total of four meetings, both sides signed an agreement on May 20 arranging to return the aircraft and crew to Hong Kong. Under the control of a CAAC pilot, the aircraft landed at Hong Kong’s Kai Tak International Airport the morning of May 23, where representatives of both airlines signed documents formally handing the plane and its cargo back to China Airlines.


\(^{112}\) The telex’s reference to not needing to work through “third parties” indicates Taipei did attempt to make contact through intermediaries.

\(^{113}\) *People’s Daily*, Beijing, May 12, 1986, reprinted on Taiwan Affairs Office web site at: [http://big5.gwytb.gov.cn:82/lasht/lasht0.asp?last_m_id=5](http://big5.gwytb.gov.cn:82/lasht/lasht0.asp?last_m_id=5).

\(^{114}\) *People’s Daily*. 
Zhang Ruipu, Hong Kong branch manager for the CAAC airline, was quoted by *People’s Daily* as being “very happy” with results of the unprecedented negotiations:

> For these discussions, both sides enjoyed completely equal status, mutual respect and mutual understanding, and satisfactory results were finally achieved in a friendly and harmonious atmosphere. The facts prove there are indeed no problems that cannot be solved between compatriots and brothers.\(^{115}\)

While the conditions surrounding Wang Hsi-chueh’s defection were never made clear, efforts by both sides for the return of the hijacked aircraft demonstrated that Beijing and Taipei were past the stage of using such events for mere propaganda and were willing to be more practical in dealing with each other. Ironically, Taiwan’s ban on family visits to the mainland was lifted little more than a year after Wang Hsi-chueh’s defection.

By 1988, when cross-strait travel and economic interaction was still in its early stages, conditions were rapidly developing for unprecedented new forms of cooperation. While there were still no contacts between governments in Beijing and Taipei at this time, law enforcement authorities on both sides initially worked through INTERPOL and Singapore’s police force to communicate needs for assistance regarding specific high-profile cases.\(^ {116}\) This unprecedented cooperation was made all the more remarkable because it took place before both sides arranged for negotiations through their Red Cross organizations and established ARATS and SEF. It also occurred well before Taiwan formally abolished the state of civil war with the CCP in 1992.

\(^{115}\) *People’s Daily.*

\(^{116}\) The city-state of Singapore, which enjoys warm ties with both Taiwan and mainland China, played a key role in fomenting direct cross-strait contacts in the late 1980s and early 1990s. Besides facilitating law enforcement cooperation, Singapore was also the site of the historic April 1993 summit between ARATS Chairman Wang Daohan and SEF Chairman Koo Chen-fu.
The First Fugitive Deportation

The first major case of cooperation between law enforcement authorities began in 1988, after Taiwan murder suspect Yang Ming-tsung fled on a fishing boat to the northern Philippines and subsequently smuggled himself into mainland China. Breaking with past tradition, Taiwan’s Criminal Investigation Bureau notified Beijing of Yang’s status and he was subsequently arrested on August 3, 1988. According to the research directed by Dr. Shen of Taiwan’s Central Police University, authorities on both sides “made contact through special channels and reached agreement to transfer the suspect through a third country,” namely Singapore. The transfer, marking the first deportation of its kind since both sides were separated by civil war in 1949, took place in Singapore on April 21, 1989, when Yang was flown in from Shanghai in the custody of Chinese law enforcement officers. He was briefly turned over to the Singaporean police, who then turned him over to law enforcement officers from Taiwan. He was flown back to Taipei later the same day.

Interestingly, both sides have declined to make public exactly what sort of “special channels” were used to communicate with each other during this initial period. But judging by academic literature published on both sides, Taipei most likely notified the mainland about Yang by issuing a “red alert” notice through INTERPOL. After he was detained, the mainland opened indirect communications with Taiwan with the help of Singapore. According to Renmin University of China law scholar Zhao Bingzhi’s research, Taiwan’s initial refusal to open formal contacts with the mainland had actually delayed this history-making deportation. He wrote that after Yang’s August 1988 arrest, law enforcement authorities in the mainland “undertook various kinds of measures to contact Taiwan police about deporting this...
criminal but were not able to succeed. Later, since Yang Ming-tsung had criminal possession of a falsified Singaporean passport, contact was made (with Taiwan) through the Singapore police.”

According to Dr. Zhao’s research, the historic transfer of Yang Ming-tsung, combined with the trend of increasing cross-strait people-to-people contacts and the multitude of disputes that arose from these contacts, led “police, judicial bodies and relevant sides to feel the increasingly urgent need for both sides to engage in judicial coordination and mutual assistance, and therefore began to gradually work through necessary channels and forms to establish and develop coordination and mutual assistance relations.” While this later on formed the basis for both sides to open direct contacts through their own intermediary organizations, the government of Singapore continued acting as a go-between for Beijing and Taipei even as late as early 1992. On February 28 of that year, after the mainland repatriated two Taiwanese fugitives, Taiwan’s Criminal Investigation Bureau Director Lu Yu-chun publicly stated Beijing had informed Taipei of the pair’s arrest through Singapore and thanked the Singaporean police for their assistance.

**Shaking Hands With ‘White Gloves’**

The two landmark cases of the hijacking incident and Yang Ming-tsung’s deportation took place under different conditions and were reactions to different situations. However, they shared many common elements that formed the basis for expanding cooperation against a backdrop of rapidly expanding people-to-people contacts. Rather than holding direct talks between government officials, both sides

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120 Zhao Bingzhi, page 106. Zhao’s phrase “relevant sides,” in Chinese “youguan fangmian (有關方面),” is a commonly used choice of words used to refer to governments on both sides without violating Beijing’s policy of not recognizing the legal authority of Taiwan’s government.

took an indirect route, working first through airline executives and later through an intermediary, the Singaporean police. While CAAC and China Airlines were nominally private airlines, in fact they were majority-owned by both governments, making contacts between them impossible without authorization from Taipei and Beijing. While the case of Yang’s handover involved law enforcement authorities on both sides, they arranged his handover through Singapore, avoiding direct contacts that might signify either Taipei’s willingness to negotiate with the mainland, or Beijing’s willingness to recognize the legal authority of Taiwan’s government. The practice of working through front organizations or third parties was since dubbed “wearing white gloves” in Taiwan’s press, which was quickly emerging from the constraints of martial law at just about the time these events took place.

**Deportations of Illegal Migrants**

It wasn’t long before both sides saw the utility of the “white gloves” strategy and decided to take it a step further. Besides basing hopes for cooperation on past successes, booming cross-strait private contacts had created a situation making cross-strait cooperation necessary to solve urgent problems. For Taiwan, the biggest and most pressing problem was the increasing burden caused by large numbers of mainland Chinese migrants caught sneaking into the island to look for work. As shown in the table below, the number of illegal migrants detained on Taiwan rapidly increased after martial law was lifted in 1987.

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Detainees</th>
<th>Total Persons Deported</th>
</tr>
</thead>
<tbody>
<tr>
<td>1987</td>
<td>762</td>
<td>760</td>
</tr>
<tr>
<td>1988</td>
<td>2,260</td>
<td>1,978</td>
</tr>
</tbody>
</table>

*Table 3: Taiwan’s Detention and Deportation of Illegal Mainland Chinese Migrants before signing of Kinmen Accord*
<table>
<thead>
<tr>
<th>Year</th>
<th>Number of Detained</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1989</td>
<td>3,384</td>
<td>3,664</td>
</tr>
<tr>
<td>1990</td>
<td>5,626</td>
<td>5,057</td>
</tr>
<tr>
<td>Total</td>
<td>12,032</td>
<td>11,459</td>
</tr>
</tbody>
</table>

Source: A Prospect of Cooperation Across the Taiwan Straits on Crime-Fighting, Sun Tao-chen, Liu Chin-fu, Sung You-yuan, Chang Tseng-liang and Hsieh Li-kung eds., Cross-Strait Interflow Prospect Foundation: Taipei May 2001, page 26, citing data provided by Bureau of Entry and Exit, National Police Administration.

As shown in Table 3, the number of mainland Chinese migrants detained on Taiwan increased more than seven-fold between 1987 and 1990. According to research published in May 1991 by Dr. Shen and his colleagues, mainland Chinese migrants were already being caught illegally entering the island before martial law was lifted in 1987. During the martial law era, the most common method used was for groups of migrants to buy old fishing boats, which were then abandoned after landing on the Taiwan coast. When groups of migrants were caught, they were placed under the authority of the military’s Taiwan Garrison Command (警備總部), which exercised sweeping powers under martial law, including authority to arrest suspected “communist spies.” But ironically, Dr. Shen and his colleagues found that during the days of martial law, deporting illegal migrants and smugglers from the mainland was “comparatively simpler, and not as complicated and difficult as now.”

That was because the Taiwan Garrison Command’s standard policy was “original vessel deportation,” meaning mainlanders were put back on their boat, provided with fuel, water and anti-communist propaganda pamphlets and escorted back out to sea, where they were directed to sail back to the mainland on their own. While this policy made it unnecessary to detain large numbers of mainlanders on Taiwan, it also led to increasing incidents of mainland vessels playing “cat and

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mouse” with Taiwan authorities guarding the coastline, as the boats would frequently attempt to land again after being forced out to sea.

The end of martial law on July 15, 1987, combined with growing numbers of mainland migrants arriving on Taiwan’s shores, led Taiwan law enforcement authorities to abandon the “original vessel deportation” policy in favor of organizing more effective repatriation. In line with these needs, the first detention center set up to house mainland migrants pending deportation was established at Hsinchu in September 1987. By that time, authorities in Taiwan had adopted a new policy of detaining mainland migrants until they could be placed on boats, in groups of 50 or more per trip, and escorted out to sea. But this method soon proved unworkable following several incidents of mutiny, fighting and disputes between migrants over where they should sail. Taiwan soon began implementing a new policy, under which the mainland migrants were forced into cabins and storage areas on the boats. After doors and hatches were nailed shut to prevent the migrants from coming out, the boats were taken out to sea and their pilots ordered to sail back to the mainland. This policy proved highly effective in getting rid of the migrants. But it was unsafe and soon resulted in humanitarian tragedies that eventually prompted the Red Cross negotiations.

The first such incident occurred on July 21, 1990, when the mainland fishing boat Min Ping Yu No. 5540 was forced to leave Taiwan with 76 illegal migrants locked inside. When the vessel arrived in mainland China, 25 persons were discovered to died in the dank and musty cabin. The incident was widely reported in the news media on both sides and stirred up a major controversy in Taiwan. Some 20 days later on August 13, a group of 50 illegal migrants were locked inside the cabin of another mainland ship, the Min Ping Yu No. 5202, and escorted out to sea by

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123 A Prospect of Cooperation Across the Taiwan Straits on Crime-Fighting, page 1.
two Taiwan naval vessels. Due to the earlier controversy, a group of six Taiwan legislators and several news media reporters were on hand to witness the sailing. Despite the high-powered escort, after sailing for about eight hours the *Min Ping Yu No. 5202* suddenly turned in an apparent attempt to head for Taiwan’s northeastern port of Keelung. The vessel collided with one of the Navy ships, broke in two pieces, and the migrants began falling into the rough seas. Eventually, 29 of them were rescued, while the remaining 21 were never recovered. This incident marked the last time Taiwan authorities used this method to make illegal migrants from the mainland return home, as it widened an already hot controversy over how the migrants were being treated.\(^{124}\)

At the same time this issue was making headlines in Taiwan, the mainland also communicated its concerns through the Beijing-based Red Cross Society of China. According to Dr. Shen’s research, the mainland’s Red Cross sent a facsimile message to its Taiwan counterpart expressing concern over the incident and requesting a detailed report on what had happened. The message expressed the mainland’s hopes that authorities in Taiwan would ensure the safety and well-being of illegal migrants while in detention in Taiwan, and employ humanitarian methods to deport them home. The message also said the mainland side “does not hope that this would affect the harmonious development of cross-strait relations.”\(^{125}\)

In another break with the past, Taiwan’s government gave the go-ahead to the ROC Red Cross to respond. The result of these communications was the unprecedented September 11-12 meeting of Red Cross representatives from both sides on the Taiwan-held island of Kinmen (Quemoy), situated less than two kilometers off the coast of Fujian province, where most of the illegal migrants had come from.

\(^{124}\) *A Prospect of Cooperation Across the Taiwan Straits on Crime-Fighting*, page 62.  
\(^{125}\) *A Prospect of Cooperation Across the Taiwan Straits on Crime-Fighting*, page 62.
After two days of negotiations, the two sides drafted and signed the Kinmen Accord that provided for the safe return of illegal migrants from both sides, as well as the handover of suspects and fugitives wanted in connection with criminal cases. The agreement, a translation of which is contained in Appendix I of this research report, arranged for private boats hired by both Red Cross societies to safely transfer the detainees, either from Kinmen to a port in the nearby mainland city of Xiamen, or from the Taiwan-held Matsu island group, also off the Fujian coast, to the nearby mainland port of Mawei. While Red Cross societies acted as “white gloves” avoiding official contact, these were the first informal negotiations held by Taipei and Beijing on their own territory since the Chinese Civil War. The Kinmen Accord also provided the first legal restoration of direct transport links between the two sides since their 1949 separation.126

Since the Kinmen Accord was signed, tens of thousands of mainland Chinese migrants have been returned home by boat under the aegis of both Red Cross organizations, as shown in the table below. Statistics show that after signing the Kinmen Accord, the mainland arranged to take back the majority of illegal migrants, arranging for pickup at least five times a year and as often as 25 times in a single year. The discrepancy in figures between the number of persons detained in Taiwan and returned to the mainland was caused by difficulties that will be reviewed later on in this research. But even though problems have occurred with the process of returning illegal migrants from Taiwan to mainland China, the mechanism for returning them has continued to function throughout the ups and downs of political tensions across the Taiwan Strait.

126 Fishing boats on both sides had long flouted the ban on direct shipping to smuggle mainland agricultural and consumer products to Kinmen and Matsu. Most of these activities were eventually legalized by Taiwan on January 1, 2001, when it formally permitted trade, transport and communications links between Kinmen and Matsu and the mainland’s Fujian province.
Table 4: Taiwan’s Detention and Deportation of Illegal Mainland Chinese Migrants after signing of Kinmen Accord

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Detainees</th>
<th>Total Persons Deported</th>
<th>Frequency of exchanges</th>
</tr>
</thead>
<tbody>
<tr>
<td>1990</td>
<td>5,626</td>
<td>5,057</td>
<td>--</td>
</tr>
<tr>
<td>1991</td>
<td>3,998</td>
<td>4,409</td>
<td>--</td>
</tr>
<tr>
<td>1992</td>
<td>5,446</td>
<td>3,445</td>
<td>12</td>
</tr>
<tr>
<td>1993</td>
<td>5,944</td>
<td>5,986</td>
<td>25</td>
</tr>
<tr>
<td>1994</td>
<td>3,216</td>
<td>4,710</td>
<td>23</td>
</tr>
<tr>
<td>1995</td>
<td>2,248</td>
<td>1,427</td>
<td>7</td>
</tr>
<tr>
<td>1996</td>
<td>1,649</td>
<td>2,250</td>
<td>10</td>
</tr>
<tr>
<td>1997</td>
<td>1,177</td>
<td>1,216</td>
<td>6</td>
</tr>
<tr>
<td>1998</td>
<td>1,294</td>
<td>1,121</td>
<td>5</td>
</tr>
<tr>
<td>1999</td>
<td>1,772</td>
<td>1,166</td>
<td>6</td>
</tr>
<tr>
<td>2000</td>
<td>1,527</td>
<td>1,230</td>
<td>7</td>
</tr>
<tr>
<td>2001</td>
<td>1,469</td>
<td>1,948</td>
<td>12</td>
</tr>
<tr>
<td>2002</td>
<td>2,032</td>
<td>1,402</td>
<td>9</td>
</tr>
<tr>
<td><strong>Total:</strong></td>
<td><strong>37,398</strong></td>
<td><strong>35,367</strong></td>
<td><strong>122</strong></td>
</tr>
</tbody>
</table>


Fugitive Exchanges

While the Kinmen Accord was mostly concerned with the humanitarian deportation of illegal migrants, it was significant that the accord also made provisions for handing over suspects and fugitives wanted on both sides. While Taiwan
benefited from the return of persons wanted in connection with criminal cases on the island, the mainland also gained from returning them, as many of these individuals were continuing to commit criminal acts on the mainland, especially preying upon fellow Taiwanese making investments there. As fate would have it, the timing of the thaw in cross-strait relations coincided with the mainland’s “reform and opening up” stage. While this created ideal conditions for Taiwan investment that spurred economic growth and job creation on the mainland, it also provided endless opportunities for criminal activities that threatened the safety of Taiwan investors.

At the time the accord was signed, Taiwanese were already flooding into the mainland. While the vast majority of long-term visitors were engaged in legitimate economic activities, their numbers also included persons fleeing prosecution on Taiwan, as well as criminals who, like Yang Ming-tsung before them, had smuggled themselves into the mainland. With the influx of Taiwan businesspeople making investments and doing business on the mainland, conditions soon became ripe for Taiwanese con men, gangsters and disreputable businesspeople to move their operations to the other side. Another motivation was the series of broad-ranging crackdowns on alleged gangsters starting in 1984, which prompted an exodus of gangsters from the island. Many of these gangsters took up residence on the other side of the Taiwan Strait, continuing to run their gangs by “remote control” from their bases on the mainland. In addition, the late 1980s also saw widespread bankruptcies of legitimate Taiwan businesses, prompting sudden flights of business owners who owed debts from failed businesses, falling stock prices and plummeting real estate

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127 Each crackdown was given an operational name. “Operation Yi Ching” (“Cleanout”) in 1984 was followed up by “Operation Hsun Lei” (“Quick Thunder”) in 1990, and “Operation Chih Ping” (“Bring Order”) was implemented in two stages in 1995 and 1996. Under each operation, a list of hundreds of reputed gangsters and dangerous criminals was drafted by the Ministry of Justice and police fanned out to arrest the suspects, who were held in a maximum-security prison on the remote Green Island. Special legal provisions allowed police and courts to treat persons on the lists differently from ordinary criminal suspects.
values. At a time when labor costs in Taiwan were skyrocketing and stock prices were falling, many businessmen chose to move to the mainland, where conditions resembled that of Taiwan in past decades. But under these conditions, the period of the late 1980s and early 1990s became a “golden era” for crooked businessmen and gangsters from Taiwan to make new fortunes on the mainland.

One of the most insightful accounts of this period was recently published in Taiwan by veteran China Times crime beat reporter Liu Yi-hung, who not only covered the arrests and trials of gang figures large and small, but was also among a handful of journalists who knew them well and frequently had conversations with them. According to his book A Proper Account of The Business, Liu wrote that besides merely fleeing prosecution at home, Taiwanese criminals flooded into mainland China during this period mostly because there were fortunes to be made. Or as he put it: “Gangsters chase profits and incentives. Places where there’s no ‘grease’ won’t produce any major syndicates or gangsters. This is the unchanging rationality of The Business.”

At one point in his book, Liu recalls a 1989 trip he made to Xiamen while working on a series of stories about the smuggling of illegal migrants. During the trip, Liu met with the reputed leader of Taiwan’s Yingchiao Gang, Chang Chen, who by that time was reportedly in the business of smuggling people and guns to Taiwan from his new base in Xiamen. Liu noticed that Chang and his colleagues were well-known in the city, even among taxicab drivers, and that they enjoyed an extravagant lifestyle. Liu wrote that when he asked Chang if his flamboyant ways might provoke a conflict with local gangsters, Chang replied by saying there weren’t yet any major local gangs in the city to challenge him.

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gangsters and criminals thus filled a gap where there were profits to be made (or as gangsters would say, “grease”) at a key time in mainland China’s economic and social development.  

**Taiwanese Harming Taiwanese**

Another major trend was the tendency of criminals from Taiwan to prey on fellow Taiwanese on the mainland.  At the time, many of the Taiwanese who established manufacturing plants on the mainland hid their investments from Taiwan government authorities, either to avoid breaking the law or having to pay taxes. Many chose to route their mainland projects through local people or dummy corporations, known as “figureheads” (*rentou*, 人頭), either to avoid violating mainland regulations or to get started without bureaucratic hassles.  This murky status put many Taiwanese proprietors in an extremely difficult situation when conflicts arose, especially over payments, as well as disputes involving people or corporations operating on both sides of the Taiwan Strait.  Their lack of legal status prompted many of these businessmen to seek help from Taiwanese gangsters in settling these disputes.

According to an article published in the ARATS-sponsored *Cross-Straits Relations Monthly* magazine, criminals from both Taiwan and the mainland have gotten mixed up with Taiwan businessmen for a variety of reasons, including but not limited to those listed above.  Many Taiwanese businessmen took to living extravagant lifestyles on the mainland, spending nights drinking and dancing at high-priced hostess clubs.  Exiled criminals and gangsters from Taiwan opened establishments catering to the tastes and desires of fellow Taiwanese, ranging from

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129 Liu Yi-hung, p. 86-87.  Ironically, less than three years after he spoke to Liu, Chang Chen and his son Chang Li-tai were arrested and deported back to Taiwan.  According to Liu’s account, Chang’s former local subordinates are now running their own local gangs.

these clubs to gambling and massage parlors. Many times due to the extravagance of Taiwanese businessmen, flashing their wealth made them prominent targets for extortion, kidnapping or “protection money” collecting by criminals, who were often their own compatriots. Many of the businessmen have kept mistresses on the mainland, and as a result, conflicts have broken out pitting the businessmen’s families against the mistresses, such as when families hire private detectives to obtain evidence of affairs.\textsuperscript{131} Another problem cited by the magazine was a tendency by Taiwanese businessmen to bring their corrupt practices with them from Taiwan to the mainland, which often brought criminals and gangsters into business deals.

While the exodus of Taiwan’s labor-intensive manufacturing sector and related industries was a boon to mainland China’s economic development, authorities there feared the accompanying crime wage could affect the willingness of Taiwan entrepreneurs to invest in the mainland. Taken in the context of the Chinese government’s efforts to root out social evils that sprouted up during the “reform and opening up” era, law enforcement authorities on the mainland had more impetus to cooperate with counterparts on Taiwan:

\begin{quote}
On the one hand, Taiwanese who come to the mainland to commit crimes take advantage of the mainland’s vast geography and their victims are unfamiliar with them and less able to defend themselves. At the same time, they also take advantage of some loopholes in border entry and exit controls. After committing offenses, they can escape easily. In addition, they have taken note of the lack of strong channels of cross-strait communication, which brings a certain difficulty to solving cases, enabling them to temporarily evade the law.\textsuperscript{132}
\end{quote}

While they already had strong motives for cooperating with each other to capture

\textsuperscript{131} Advertisements for these services, run with headlines like “catch him in the act” and “rescue your marriage,” are commonly published in Taiwan newspapers. But Chinese law does not permit these detectives to legally work in the mainland.

\textsuperscript{132} You Xinpei, page 13.
and deport criminals, both sides initially relied on their respective Red Cross societies to work out a deal under which they would not have to rely on assistance from third parties, such as Singapore, to deport troublesome fugitives from the mainland back to Taiwan. This was achieved with the signing of the Kinmen Accord. As seen in Appendix I, Section 2 clearly states “suspects wanted for criminal investigations or fugitives” were among the “objects of deportation” covered by the agreement.

**Criminal Deportations Begin**

The first fugitive to be deported under the terms of this agreement was not a Taiwanese criminal hiding on the mainland, but rather a mainland Chinese suspect hiding on Taiwan. In February of 1989, China issued a worldwide “red notice” through INTERPOL seeking the arrest and deportation of Wu Dapeng, a Beijing bank employee accused of fleeing the country with US$3.34 million worth of bonds. According to Dr. Shen’s research, mainland public security authorities briefed counterparts in Hong Kong and Taiwan with information on Wu’s case after issuing the “red notice” alert, and after Wu was discovered in Taiwan, he was placed under arrest on October 10, 1989. Following the signing of the Kinmen Accord in September of the following year, he was put on a Red Cross boat together with a group of illegal migrants and handed over to the mainland side through Kinmen and Xiamen on October 9, 1990.¹³³ Wu’s detention and subsequent deportation showed that cross-strait cooperation could work both ways, and that Taiwan was sincere about executing the Kinmen Agreement.

Shortly after Wu Dapeng’s deportation, the mainland responded by organizing the transfer of fugitives wanted in Taiwan, starting with a group of six persons including murder suspects Yeh Chen-chia and Hsu Peng-yu and smuggler Lien Wen-chi, who were transferred through Xiamen and Kinmen on December 10,

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¹³³ *A Prospect of Cooperation Across the Taiwan Straits on Crime-Fighting*, page 82.
This was followed on April 1, 1991 with the Mawei-to-Matsu transfer of Wu Tung-tan, the first major reputed gang leader from Taiwan to be deported. Taiwan responded in kind on May 31 by organizing the transfer of three mainland Chinese fugitives, including Li Dachang, Ouyang Liang and Lin Zhenyong, which was followed by the July 30, 1991 handover of 11 Taiwanese fugitives including fraud suspect Tsai Chen-cheng, attempted murder suspect Chang Jui-hsiung, and alleged murderer and arms smuggler Lin Tsan-pin. On December 12, 1991, Taiwan handed over another three mainland Chinese through Kinmen and Xiamen, including Xu Xiaochun, a fraud case suspect, and Zhang Baoxin and Wu Jizhou, who were both wanted for allegedly making off with bank loan money under fraudulent circumstances. The mainland responded by handing Taiwan another “big fish” with the February 28, 1992 Xiamen-Kinmen transfer of reputed Yingchiao Gang leader Chang Chen (the gangster who had bragged about himself to a China Times reporter in 1989) and his son Chang Li-tai. Besides being an alleged senior gang figure, Chang’s handover was also significant because he had given up Taiwan citizenship after being awarded PRC citizenship as a “Patriotic Taiwan Compatriot” in November of 1989. Even though he was officially a PRC citizen enjoying prominent status with Communist Party offices and had a domicile registered in Beijing, he was arrested in Beijing and returned to Taiwan in handcuffs, leg irons and a blindfold.

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134 The other three persons, Huang Tsai, Chen Wen-pin and Huang Chin-cheng, were only listed as having illegally entered mainland China. See “Chart of Cross-Strait Fugitive Deportations in Recent Years,” Taiwan Daily News, Taichung, February 29, 1992.
135 A Prospect of Cooperation Across the Taiwan Straits on Crime-Fighting, page 82. Wu Tung-tan was the reputed head of the Tientaomeng (Heavenly Way Alliance) Gang’s “Sun” branch.
136 The Taiwan Daily News listed the handover date as July 30, while Dr. Shen’s A Prospect of Cooperation Across the Taiwan Straits on Crime-Fighting said it took place on July 27.
137 According to Chang’s own admission, he had turned over his Taiwan identification card to authorities in Beijing when awarded with PRC citizenship. Chang claimed to have received citizenship with approval from the Chinese Communist Party’s United Front Works Department after making sizable “donations” to government institutions. Details of Chang’s receiving PRC citizenship and the full text of an interview with Chang are contained in Chuang Jung-hung, “Chang Chen to Finally Face Justice,” Central Daily News, Taipei, February 29, 1992.
138 Chuang Jung-hung, “Chang Chen Father and Son Brought Back to Taiwan via Xiamen, Kinmen,”
According to Chang, in nearly three months of detention, he was never told he would be sent back to Taiwan until the moment he was transferred to the Taiwan boat headed for Kinmen.  

Cross-strait cooperation by means of returning suspects and fugitives remained strong through the early and mid-1990s, in tandem with the regular dialogue between SEF and ARATS. According to research published in 1996 by Central Police University Professor Chang Chung-yung, the mainland side turned over 28 suspects and fugitives during 15 separate transfers between October 1990 and the end of 1996. During the same period, Taiwan handed over seven fugitives wanted on the mainland in five separate transfers. For convenience, these transfers took place on Red Cross boats together with the handover of illegal migrants.

**Handovers Continue Despite Tensions**

These handovers were also significant because they continued taking place during the tense period leading up to Taiwan’s March 1996 presidential election, a time when the mainland cut off ARATS-SEF meetings, conducted missile tests and military exercises in the Taiwan Strait and ran a campaign in the official media to criticize Lee Teng-hui. After June of 1995, fugitive transfers were suspended amid two rounds of Chinese missile testfirings from July 21-28 and August 15-25. But four months after the last handover, the mainland turned over another batch of three Taiwanese fugitives and accepted 200 illegal migrants on November 8, 1995. At the time, Taiwan officials even took the transfer as a sign that cross-strait relations might be “warming” after reaching a low point during the missile tests. But on
November 25, the mainland’s Xinhua News Agency confirmed that within days of the transfer, the mainland’s People’s Liberation Army conducted a large-scale exercise on Fujian province’s Dongshan Island simulating an amphibious invasion of Taiwan.\textsuperscript{142}

Even so, the mainland resumed transfers two months later on January 24, 1996, this time by deporting a Taiwanese fugitive through Mawei and Matsu.\textsuperscript{143}

The years 1996 and 1997 saw a series of small, incremental increases in cross-strait cooperation that taken together amount to a breakthrough. According to news reports published in Taiwan, it was around this time that law enforcement authorities in Taiwan began handing over substantial amounts of information to counterparts on the mainland through the SEF-ARATS channel. For example, on December 9, 1996, Taiwan’s \textit{China Times} published an interview with Kong Xianming, a high-ranking criminal investigation detective with the Shanghai Public Security Bureau concurrently responsible for all communications between Shanghai municipal authorities and China’s INTERPOL National Central Bureau. In the interview, Kong repeatedly stated China’s willingness to detain and deport persons wanted by authorities on Taiwan. Kong said he frequently read news media reports about Taiwanese criminals who had allegedly fled to the mainland, but added that “what has been written in newspapers can only be used for reference. To deal with someone, there must be evidence in accordance with the law.”\textsuperscript{144} Kong complained that law enforcement officials on the mainland were confused because Taiwanese legally entering the mainland as legitimate businessmen or even elected local government officials were identified in Taiwan news media reports as being criminals.

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\textsuperscript{142} Date of Xinhua report provided on “Timetable of Major Cross-Strait Events” posted on Mainland Affairs Council web site, www.mac.gov.tw.

\textsuperscript{143} Chen Ta-ming, “After Robbing Nearly NT$10 million, Fleeing to Mainland, Chen Kuan-chi Returns From Other Side,” \textit{Independence Morning Post}, Taipei, January 26, 1996.

on the run. He said authorities in the mainland wanted detailed information on wanted suspects from counterparts in Taiwan, making clear exactly who was involved in what cases, and invited Taipei to send the information through “normal channels,” presumably meaning SEF and ARATS. Kong even suggested the prospect of channeling such information through INTERPOL.

Later on, in August of 1997, Taiwan’s *Liberty Times* cited police sources confirming that Taiwan had provided the mainland side with just such detailed information about more than 180 suspects that it wanted deported back to the island to face investigation and trial. While authorities on Taiwan could not be sure that all of these persons were actually in the mainland, they had reason to believe most of them probably were. By this time, reports said the mainland side had already returned “nearly 40” of Taiwan’s wanted fugitives and suspects. While reports made no connection between the handover of the information and the remarks made earlier by Kong Xianming, the information was given shortly after Kong’s suggestions were made public. It also occurred not long after the retired head of Taiwan’s police force, former National Police Administration Director Lu Yu-chun, made his first visit to mainland China, although only in his capacity as chairman of a private association of police detectives in Taiwan.

### Shift to Direct Transfers

Another important upgrading in the process of cooperation started in mid-1997 after the mainland’s Red Cross suggested to its Taiwan counterpart that the handover process would be easier and safer if methods were changed. Up to that time, both

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146 Lai Jen-chung.

147 In the *China Times* interview, Kong said he knew of Lu’s visit, but added that he was unable to meet with Lu because Lu was only taking part in unofficial activities arranged by his local hosts, a private association of detectives in Shanghai. Kong said he hoped that in the future, incumbent police officials from Taiwan would “openly” come to the mainland for meetings with their counterparts.
sides had arranged for private vessels to anchor alongside each other in the middle of the narrow straits separating Kinmen and Matsu from the nearby mainland coast. On occasion, bad weather or high winds would make the transfer of people from one boat to another rather precarious and even dangerous. The mainland side suggested that instead of meeting in the middle, both sides could sail into each other’s ports to drop off and pick up passengers.

The first time this was done was on May 14, 1997, when mainland China arranged for the transfer of Liu Shan-chung, an unemployed ex-journalist from Taiwan who had hijacked a domestic airliner and forced it to land at Xiamen on March 10 of that year. The sailing was itself a major news event. According to reporters who witnessed the sailing, a total of 15 people from the Taiwan side, including seven SEF officials, police officers from Kinmen and Taiwan proper, as well as volunteer firemen and a doctor, boarded a rented vessel called the “Hai An.” The vessel sailed out to a small islet very close to the middle of the narrow channel separating the Kinmen Islands from nearby Xiamen on the mainland. After the vessel raised a yellow flag, it was approached by a small vessel from the mainland side that guided it into the port of Xiamen. The seven SEF officials were permitted to disembark at the port, while the eight others remained on board. After signing documents and having a brief discussion with mainland Chinese Red Cross officials in Xiamen, the seven SEF officials returned to the boat with Liu Shan-chung and sailed back to Kinmen.\textsuperscript{148} The same scheme was repeated on July 12, when Taiwan agreed to turn over mainland Chinese hijackers Huang Shugang and Han Fengying, who had hijacked Chinese airliners to Taiwan in separate incidents on April 6, 1993 and September 30, 1993. A mainland vessel was guided into Kinmen’s main harbor,

picked up the two hijackers and returned to Xiamen the same day.

While this new method of picking up fugitives proved to be effective, it did not immediately become a new policy for picking up and dropping off all illegal migrants and suspects due to Taiwan’s insistence that transfers of Liu Shan-chung, Han Fengying and Huang Shugang were “special cases” negotiated separately between SEF and ARATS. But Taipei soon assented to direct sailings for pick-up and drop-off, beginning with the August 8, 1997 transfer of Wu Chi-cheng, a high-profile reputed gangster who was also an elected deputy to the Yunlin County Council. According to news reports, the reasons for this change were very unusual. While Wu Chi-cheng was included on a list of fugitives to be arrested under the Justice Ministry’s “Chih Ping” (“Bring Order”) crackdown, police in Yunlin County had to obtain special permission to arrest him due to his status as an elected County Council deputy, since under Taiwan law, deputies could not be arrested while their councils were in session without special permission from the councils. Even though Wu was wanted in connection with rigged construction bids and several incidents of violence, he managed to flee the island in June of 1997, just as the Yunlin County Council was preparing to convene a special session. Police told China Times reporters that after Wu fled to the mainland, police notified authorities in the mainland through SEF and ARATS. The mainland promptly arrested Wu and prepared to turn him over in early August, but just before the proposed transfer was to take place, the SEF was informed that the vessel rented by the mainland Red Cross, the “Hai Xia,” had to undergo repairs for engine trouble that could take as long as two months. Police in Taiwan received intelligence suggesting some of Wu’s cohorts had prepared a large sum of money and were planning to try and win Wu’s release by bribing officials on the mainland. Whether true or not, the rumors were said to have prompted the Taiwan side to proactively suggest that it dispatch its own boat to Xiamen for the express
purpose of picking up Wu. The request was granted, and arrangements were made to transport him back quickly.

Another sign of closer cooperation was the September 18, 1997 deportation of Taiwanese suspect Tsai Chih-wei, accused of capitalizing on his position as a bank staffer to falsify customer information and embezzle NT$31 million (US$890,000, HK$6.98 million). In April of 1997, Tsai fled with the money to mainland China, and information about his case was soon passed through SEF and ARATS to the mainland authorities. In July, when Tsai cashed a large sum of US dollars in traveler’s checks at a Shenzhen bank, he caught the attention of public security authorities in the city and was taken into custody. During the lead-up to his September 18 transfer through Xiamen and Kinmen, police in Taiwan were pleasantly surprised when they were informed that along with the suspect, counterparts in mainland China would also hand over US$227,000 in petty cash seized from Tsai’s holdings in Shenzhen-area banks. In addition, mainland authorities arranged for Tsai’s bank accounts in Hong Kong, holding some HK$1.6 million in cash, to be frozen pending results of his trial on Taiwan. This was the first time for either side to return stolen assets in addition to suspects.

Progress Amid Complaints

By around this time, deportations of both illegal migrants and wanted fugitives and suspects had become commonplace. In terms of quality, the level of cooperation was progressively rising. In many ways, Taiwan was working to provide the mainland with information that had been requested. But judging by their public

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149 Details of the ups and downs surrounding Wu’s return, as well as Taiwan’s grudging acceptance of direct sailings, are in three separate stories all published in the August 9, 1997 edition of the *China Times* (Taipei).

150 Reports said that when he was arrested, Tsai had more than US$20,000 in cash in his pockets, plus hundreds of thousands of US dollars deposited at a Shenzhen branch of the Bank of China. Tsai was subsequently dubbed “the richest cross-strait deportee” by the news media. See Chuang Jung-hung, “Suspect, Loot Returned Together – A First in Cross-Strait Cooperation,” *Liberty Times*, Taipei, September 19, 1997.
remarks, officials in Taiwan were still not satisfied with the level of cooperation. For example, in July of 1997, a vice-chairman of Taiwan’s Mainland Affairs Council, Kao Koong-lian, complained the mainland had only returned 36 of some 192 wanted persons whose information was passed on to mainland authorities. Besides naming some of the prominent fugitives believed to be living on the other side of the Taiwan Strait, Mr. Kao even urged Beijing “not to let the mainland become a safe haven for fugitives.”

But while Taiwan was eager to obtain custody of these fugitives, events later showed that at least some of the persons on the list were in fact not in mainland China. For example, reports have referred to the inclusion on the list of three suspects wanted for the April 1997 kidnapping and murder of television actress Pai Ping-ping’s 17-year-old daughter, a crime that made sensational headlines for months. But all three of the suspects later turned out never to have left the island. On August 9, 1997, reports said police had received intelligence information suggesting that Chiayi County Council Speaker Hsiao Teng-piao, another alleged gangster-politician whose arrest was ordered as part of the “Chih Ping” (“Bring Order”) crackdown on organized crime, had managed to flee to the mainland. Some reports even suggested Hsiao was already under arrest in the mainland. But events later proved that Hsiao had remained in Taiwan the entire time. And another prominent figure on Taiwan’s “wanted” list, entertainment industry magnate Yang Teng-kui, turned out to have spent most of his time in Macau. Another problem delaying the return of Taiwanese fugitives was Taiwan’s insistence that they be transferred at sea, a policy

that lasted until the return of hijacker Liu Shan-chung. But perhaps the biggest motivation of all for Taiwan’s government to complain about the level of cooperation was the level of public political debate within Taiwan during mid- and late 1997. At this time, headlines were dominated with grisly crime stories, including the likes of the Pai murder, and residents were genuinely afraid of perceived worsening crime. Crime was also a key issue in the November 1997 elections for county magistrates and city mayors held islandwide.

Once again, tensions over complaints and counter-complaints were blamed for delaying the process of returning suspects and fugitives. But it wasn’t long before transfers were back on track, and once again the level of cooperation gradually increased. On October 13, 1998, while handing over more than 200 mainland Chinese migrants, Taiwan also turned over Yang Caixia, a mainland Chinese woman accused of murdering her Taiwanese husband in June 1996.\textsuperscript{154} While she was deported to face trial for a crime she had committed in mainland Chinese territory, the handover of Yang Caixia was remarkable due to the fact that she had allegedly killed a Taiwan citizen. Even though Taiwan could have attempted to try Yang in its own courts, since a Taiwan citizen was the alleged victim, it chose instead to return her to the jurisdiction where the alleged crime was committed.\textsuperscript{155}

On the same day Yang Caixia was handed over, the mainland side also turned over four fugitives to Taiwan that included Chen Chung-cheng, who had fled to the mainland after robbing two banks in central Taiwan’s Changhua County in 1987. Reports in Taiwan said that after arriving on the mainland, Chen ran a restaurant in Xiamen and maintained a low profile. Even though he had been in good standing

\textsuperscript{154} According to reports published in Taiwan, Yang Caixia had married a Taiwanese man in 1992, and killed him while the two were visiting her family on the mainland’s Hainan Island in April of 1996. After the alleged murder, Yang took advantage of her spousal status to return to Taiwan, where she thought she could avoid prosecution.

with Xiamen authorities for nearly a decade, he was still arrested and turned over to Taiwan. After his return, Chen told reporters he saw “many other Taiwanese” in the Xiamen prison where he was held pending his deportation, indicating the mainland had gathered more Taiwanese to be deported.\textsuperscript{156} The mainland followed up with more deportations of important criminals on February 13 and June 27, 1999.\textsuperscript{157}

**Lee’s Remarks Prompt Short Delay**

President Lee’s controversial July 1999 “state-to-state relations” remarks were blamed for stalling cross-strait fugitive deportations. But surprisingly, the delay in repatriations only lasted for about seven months, not really much longer than it had been during the 1995-96 tensions. And just as in the past, it was the mainland side that took the initiative in re-starting the process. According to a report in the KMT’s *Central Daily News*, which at the time had strong sources in the island’s police force, the head of Taiwan’s Criminal Investigation Bureau, Cheng Ching-sung, held a rare one-on-one meeting in late January 2000 with a high-ranking mainland Chinese law enforcement representative on the sidelines of an international seminar on fighting drug smuggling in Honolulu, Hawaii.\textsuperscript{158} During the meeting, Cheng Chung-sung was said to have expressed Taiwan’s willingness to resume and upgrade law enforcement cooperation with the mainland. The report said Mr. Cheng was “pleasantly surprised” to receive a “friendly response” from his mainland counterpart. Just before Mr. Cheng returned home on January 24, reports in Taiwan cited police sources saying the mainland had contacted Taipei to arrange the transfer of six


\textsuperscript{158} Details of the meeting were published in Cheng Tzu-li, “Both Sides Join Hands to Fight Crime,” *Central Daily News*, Taipei, January 25, 2000. Unfortunately, the report did not identify the name or position of the “Chinese communist representative” who had met with Mr. Cheng.
Taiwanese fugitives on January 24, 2000 through Mawei and Matsu. But after Taiwan had made the necessary arrangements, including flying Criminal Investigation Bureau personnel to Matsu to receive the deportees, the mainland side cited an incoming cold front as reason to delay the transfer until January 27. On that date, the transfer of prisoners was delayed once again, causing so much frustration on the Taiwan side that personnel were even recalled from Matsu back to Taipei, thinking that Beijing had changed its mind about sending back the six fugitives. The delay did continue, but only for about another month, and the transfer was finally made on February 21, 2000.

**Deportations Continue After Power Transfer**

The month of March 2000 saw another major watershed occur in cross-strait relations after the Democratic Progressive Party’s Chen Shui-bian won the presidential election, removing the KMT from power for the first time. Even though Mr. Chen had taken a moderate stance on cross-strait relations during his candidacy, the DPP’s long-held stance of advocating independence for Taiwan made it unpopular on the mainland. Following his inauguration on May 20, 2000, President Chen’s “four no’s and a not” promises failed to persuade mainland leaders into re-opening the ARATS-SEF dialogue or other channels of communication with Chen’s administration. However, Beijing also refrained from undertaking hostile moves, such as repeating the military drills and missile test-firings of 1995 and 1996, in favor of adopting a policy of “observing his actions and listening to his words.”

Following Chen Shui-bian’s taking over in Taiwan, transfers of fugitives were

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160 “Wang Zaixi Says the Only Road to Resolving Cross-Strait Impasse is Recognizing a ‘One China’ Principle,” Xinhua News Agency article citing speech given by Taiwan Affairs Office Deputy Director Wang Zaixi, Beijing, November 15, 2000, reprinted on Taiwan Affairs Office website at: http://www.gwytb.gov.cn/zlzx/zlzx0.asp?zlzx_m_id=607.
initially delayed. But toward the end of the year, both sides not only resumed handovers, but even upgraded their cooperation by arranging for the transfer of especially dangerous or powerful Taiwanese criminals by air through Macau, in addition to continuing transfers by boat through Xiamen-Kinmen and Mawei-Matsu. The first case took place on November 28, 2000 with the transfer of reputed Four Seas Gang leader Yang Kuang-nan, who was handed over to Macau police and placed on a commercial flight to Taipei in the custody of Taiwan police. At the time, Yang’s handover by air was hailed in Taiwan as a breakthrough attributed to an oral agreement reached between SEF Chairman Koo Chen-fu and ARATS Chairman Wang Daohan during their 1998 meeting in Shanghai, at which “a consensus was reached between both sides that before the signing of a cross-strait agreement, individual case cooperation would be strengthened.”

An interesting aspect of Yang’s case was that the mainland had originally intended to have him sent to Taiwan in March of 1999. After Yang was arrested in Shanghai that month, Taiwan’s Criminal Investigation Bureau was informed that he would be declared “persona non grata” and placed on a flight from Shanghai to Macau, where Criminal Investigation Bureau officers would be permitted to take custody of him and take him back to Taiwan on a commercial flight. But after his flight’s arrival, gang members successfully intercepted Yang on the Macau International Airport tarmac, helping him escape before reaching the passenger terminal exit where Taiwan officers were waiting for him. Yang eventually smuggled himself back into China, this time to Hainan Island, where he was arrested the following year.


162 Stories about Yang Kuang-nan’s “great escape” from Macau were published in Taiwan newspapers on November 29, 2000 after he was finally returned to Taiwan. See also Liang Zhilun, “Four Seas
While air transfers opened up a new avenue for deporting especially dangerous persons, the sea route through Kinmen and Matsu also continued to function. Transfers by boat included the January 9, 2001 handover of Fang Tai-ching, Hsia Fu-kuang and Chang Hsing-ya, who were all wanted in connection with separate murder cases. On April 21, while preparing to turn over six more fugitives to Taiwan, the mainland even permitted four of them to be photographed by the news media in Guangdong province, where they were caught, as they awaited transfer to Fujian for deportation. The mainland also indicated it was willing to give up jurisdiction in some cases, as two of the six men turned over through Mawei and Matsu on April 24, Cheng Sen-tien and Lin Tse-pin, were accused of printing and distributing more than RMB 60 million counterfeit Chinese yuan. The mainland arranged another transfer of major suspects on June 27, 2001, with the exchange of four Taiwanese wanted for theft, drug smuggling and arson offenses for four mainland Chinese who had finished their prison sentences on Taiwan for separate hijacking incidents.

Following the successful deportation of Yang Kuang-nan by air through Macau, this method was used again in October of 2001 to transport three dangerous suspects back to the island, including reputed Tientaomeng Gang senior figures Ling Chih-cheng and Hsu Wen-hsien, as well as former Chiayi County Council deputy Lee Wen-tang, who was wanted separately in connection with a major extortion case. According to news reports published in Taiwan the day after their return, both Taiwan and the mainland feared the Tientaomeng Gang might attempt something similar to

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163 The photograph was reprinted in major Taiwan newspapers, including the United Daily News, on April 22, 2001.
Yang Kuang-nan’s escape at Macau airport. As a result both sides maintained strict secrecy as they arranged for the transfer. Reports said that officers from Taiwan’s Criminal Investigation Bureau were not even informed of exactly when the men would be transferred until the morning of October 29, the actual day they were taken across the border from mainland China into Macau. Bureau officials rushed to catch a flight to Macau and managed to escort the fugitives on a flight leaving for Taiwan at 10:00 pm the same day. After they were safely taken into custody on Taiwan, officials told reporters the transfer was evidence that both sides were serious about cooperating to fight crime and that Taiwan’s police force had “excellent cooperative channels” with counterparts in mainland China, Macau and Hong Kong.

The Macau model was employed once again on April 3, 2002, when mainland China handed Taiwan its biggest catch since cross-strait cooperation began more than a decade earlier – Chan Lung-lan, a reputed top leader from the Tientaomeng who occupied a place on Taiwan’s “Top 10 Most Wanted” list of fugitives. Nicknamed “The Pangolin,” Chan managed to flee for the mainland in 1995 after hiding out in mountainous areas of Taiwan, ditching police in a cat-and-mouse game that lasted for months. His escape came as a great embarrassment for police in Taiwan at a time of increasing public concern over rising crime. According to reports published in mainland China, Chan was believed by public security authorities to have extorted large sums of money from several Taiwanese businessmen operating on the mainland, including victims in Shenzhen, Hainan Island and Yunnan province, where he eventually settled down and took a mistress. Chan was imprisoned for a year after being convicted of collecting ransom from a kidnapped Taiwanese businessman’s

family, and as soon as he was eligible for parole, mainland authorities arranged for his transfer back to Taiwan.\textsuperscript{167} The transfer was seen as especially significant by police officials in Taiwan, as Chan’s name was placed at the top of several lists of suspects given to the mainland, as well as the list of names stated in public by Taiwan officials complaining about a lack of cooperation.

More good news came in October of 2002, during a transfer of seven Taiwanese fugitives via Mawei and Matsu. At the time, media reports in Taiwan said Criminal Investigation Bureau officials who took part in the transfer were excited about the prospects for more transfers. The officials said that during the handover, they were told by mainland counterparts that authorities there had already tracked down “more than 300” Taiwanese criminals, who would soon be deported back to Taiwan.\textsuperscript{168}

During the year 2003, transfers by boat and by air have continued. In addition to suspects wanted in connection with serious offenses ranging from murder to fraud, the mainland has also returned Wu Tung-tan, another prominent gangster from Taiwan’s “Top 10 Most Wanted” list of fugitives.\textsuperscript{169} According to media reports in Taiwan, the arrest and deportation of Wu Tung-tan saw cross-strait cooperation raised to an even higher level. This was apparently achieved because law enforcement personnel on both sides were more trusting of each other, the channel through Macau was working well, and since Wu Tung-tan was considered to be an especially dangerous criminal. While Wu was wanted in connection with a number of important cases, in the early 1990s he also became estranged from the Tientaomeng

\textsuperscript{169} If Yang Kuang-nan’s “great escape” doesn’t count, Wu Tung-tan has the unusual distinction of being the only Taiwanese fugitive to be deported from the mainland back to Taiwan twice. Following his 1991 deportation to Taiwan, he was sentenced to three years and seven months in jail for allegedly ordering an arson attack. He was released from prison in June 1994 and stayed in Taiwan for a few years before fleeing to Cambodia and eventually returning to mainland China.
Gang’s mainstream leadership, who removed him from his post as titular head of the gang’s “Sun” branch. Wu claimed to still be the rightful leader of the branch, which led to a bloody conflict between members loyal to the “Old Sun” branch and the “New Sun” branch. Reports in Taiwan also said that since Wu was thought to be seriously ill, he was determined to exact revenge on his enemies in Taiwan through subordinates before he died. The reports said rivals in Taiwan were preparing to launch a counter-attack of their own against Wu. Based on this information, police officials told Taiwan’s United Daily News they had managed to “persuade” the mainland to urgently deal with Wu’s case. The paper said that “core police officials” took advantage of a rare face-to-face encounter with Chinese public security officials, afforded during the February 2003 transfer of another fugitive at Macau’s airport, to hand over information about Wu and state their case that Wu was a very dangerous man whose presence invited more trouble on the mainland. Unlike in the past, when Taiwan merely handed over a list of names and some general information about each suspect, officials made sure to provide the mainland with a detailed accounting of crimes Wu was suspected of involvement in. The strategy not only proved successful, but Wu was flown back to Taiwan within a month. In fact, Wu’s transfer was even arranged in the middle of another cross-strait crisis -- the public health dilemma posed by the outbreak of Severe Acute Respiratory Syndrome (SARS). At a time when most people were fearful of flying in the region, and when Wu himself had come down with a nasty cough, authorities on both sides still went ahead with the transfer by air through Macau, only bothering to make Wu wear a face mask.170

170 Photographs of Wu Tung-tan arriving in Taiwan wearing a mask over his nose and mouth were published in many newspapers on the island on April 1, 2003, the day after his arrival. Details about senior Taiwan police officials briefing mainland counterparts can be found in Chen Yi-hsiung, “Police on Both Sides Already Have Tacit Understanding on Deporting Wu Tung-tan,” United Daily News, Taipei, March 19, 2002. Rumors about gangsters allegedly trying to bribe Wu’s way out of prison in the mainland are mentioned in Hsieh Ming-chun and Chan Cheng-kuang, “Sick, Hobbling Wu Tung-tan Brought Back ,” China Times, Taipei, April 1, 2003.
Review: Progress Slow But Sure

Looking back on the progress of exchanging criminal suspects and fugitives, both Beijing and Taipei have complained about each other throughout the process. However, it is clear that the exchange of fugitives has gradually progressed from a difficult and indirect affair, conducted completely with the aid of third parties such as Singapore, to more direct communications, first through Red Cross organizations and later on through ARATS and SEF, which both function in the same way that “National Central Bureau” offices in sovereign countries do in their relations with each other through INTERPOL. Instead of being flown through Singapore, criminals can now returned to each side directly by boat. Besides criminals themselves, loot taken during their criminal acts has also been returned, and both sides have even occasionally demonstrated a willingness to forgo jurisdiction over some cases. In addition, a second conduit for deporting criminals has been opened through the Chinese territory of Macau, which despite being handed over to become a Special Administrative Region of the PRC in 1999 continues to operate its police force and justice system separately from the mainland. The “Macau model” has become especially useful for deporting persons whose cases are considered to be especially urgent, or who are considered to be especially dangerous by both sides. While law enforcement authorities on both sides started communicating with each other only indirectly, starting with INTERPOL and moving on to working through the Singaporean police, they have since begun exchanging information and communications through ARATS and SEF. In addition, law enforcement officers on both sides of the Taiwan Strait have also occasionally opened up direct communications with each other, including by telephone, facsimile, electronic mail and even occasional face-to-face meetings, such as the conversations that led to Wu Tung-tan’s arrest and deportation. And even more importantly, cooperation between
law enforcement authorities on both sides has increased and expanded, in a gradual, step-by-step pattern, in spite of ups and downs in the political relationship. While political tensions have occasionally delayed this process, nothing has stopped it for more than several months at a time.

It is rather difficult to judge cross-strait cooperation merely by the number of criminal suspects and fugitives deported by both sides. This is because the method of classifying such deportations, and the figures cited by officials in their public remarks, can be confusing. For example, in July 1998 Taiwan’s Interior Minister Huang Chu-wen complained that the mainland had only returned 43 of the 192 persons on Taiwan’s wish-list of wanted fugitives. But statistics from Taiwan’s Criminal Investigation Bureau indicate that the number of persons wanted and persons returned has gotten much higher since then. However, differences remain over whether the fugitives were returned to Taiwan in accordance with requests for assistance, or whether the mainland “proactively” handed persons over who also happened to be criminal suspects.

### Table 5: Cross-Strait Fugitive Deportations

<table>
<thead>
<tr>
<th>Taiwan Fugitives:</th>
<th>Type</th>
<th>(1/2002 - 6/2002)</th>
<th>2001</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(1990-6/2002)</td>
<td>13</td>
<td>31</td>
<td>413</td>
</tr>
<tr>
<td>Arrest, deportation requests sent to mainland</td>
<td>4</td>
<td>12</td>
<td>27</td>
<td></td>
</tr>
<tr>
<td>Persons proactively</td>
<td>4</td>
<td>10</td>
<td>61</td>
<td></td>
</tr>
</tbody>
</table>

Mainland Fugitives:

<table>
<thead>
<tr>
<th>Type</th>
<th>(1/2002 - 6/2002)</th>
<th>2001</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arrest, deportation requests sent to Taiwan</td>
<td>0</td>
<td>2</td>
<td>17</td>
</tr>
<tr>
<td>Persons arrested, deported from Taiwan back to mainland</td>
<td>0</td>
<td>0</td>
<td>12</td>
</tr>
<tr>
<td>Persons proactively deported to mainland</td>
<td>0</td>
<td>10</td>
<td>19</td>
</tr>
</tbody>
</table>


Judging by these official figures, a total of 88 Taiwanese criminal suspects and fugitives have been handed back to Taiwan since the Kinmen Accord was signed in 1990. In addition, Taiwan’s statistics say that two fugitives were arrested in Taiwan after returning to the island on their own. This would put the total number of returnees at 90, nearly a quarter of the over 400 names on Taiwan’s list of deportees. At the same time, Taiwan has given back 12 of the 17 persons requested by mainland China. The number of mainland Chinese criminal suspects fleeing to Taiwan is understandably smaller, given the difficulty mainland Chinese residents have in obtaining permission to enter Taiwan. In addition, Taiwan has “proactively” turned over 19 mainland Chinese classified as “criminal suspects” in the SEF’s statistics. However, this number probably includes migrants who committed violent or criminal acts while in detention on Taiwan, such as instigating detention center riots, hunger strikes and the like, and don’t have a criminal record on the mainland. Still, the number of deportations demonstrates that the level of cross-strait cooperation is high.
Cooperation on Hijackings

Of all the issues encompassed by cross-strait law enforcement cooperation, hijackings of aircraft between both sides of the Taiwan Strait have by far attracted the most attention, both among the general public and between governments on both sides of the Taiwan Strait. Between April 1993 and October 1998, 19 individuals were involved in a total of 14 hijackings, including 13 from the mainland to Taiwan, and one from Taiwan to the mainland. As hijackings continued to occur, as frequently as five times in five weeks during November and December 1993, they continued attracting more attention from the international press, causing great embarrassment for both sides just after the historic Koo-Wang meeting. Therefore the issue of hijackings and how both sides dealt with hijackers was an important problem discussed at almost every face-to-face meeting of SEF and ARATS officials between the 1993 Wang-Koo summit and their second meeting at Shanghai in 1998.

Most expert accounts agree the main motivation for the spate of hijackings in the 1990s was the chance for hijackers to seek a new life in prosperous Taiwan without getting punished for their actions. Until the early 1990s, Taiwan had a policy of rewarding “defections” with prizes of cash and gold, and at least 16 mainland Chinese air force pilots flew their aircraft to Taiwan between 1960 and 1989. The first civilian airliner hijacking incident involving defection to Taiwan took place on September 15, 1961, when Shao Xiyan and Gao Zhizong hijacked a Chinese Antonov-2 plane from Shandong province to Cheju Island, South Korea. Shortly after their arrival, the two men were permitted to move to Taiwan, where they were welcomed as “anti-communist fighters” and given reward money. A group of six mainland Chinese hijackers received even better treatment after their May 5, 1983 hijacking of a Chinese passenger plane to South Korea, where they were held for a year before being permitted to head on to Taiwan. Besides being given the right to
live in Taiwan without punishment, the six men were personally welcomed as “freedom seekers” by President Chiang Ching-kuo and given reward money amounting to NT$17 million each.\textsuperscript{172}

Along with its opening to the mainland in the late 1980s, Taiwan began to gradually scrap its former policy of encouraging hijackings. While hijackers were kept in Taiwan for trial, planes were refueled and allowed to return to the mainland, although they were ordered to fly through Hong Kong’s airspace on the way in line with Taiwan’s ban on direct transport.\textsuperscript{173} But the island’s failure to strictly punish hijackers still ended up encouraging more people on the mainland to make new attempts. For example, Long Guiyun and Zhang Qingguo were each only sentenced to prison terms of three years and six months for their roles in hijacking a Xiamen Airlines plane to the island on May 12, 1988. After serving only 13 months of their sentences, the two obtained early release and were permitted to remain permanently on Taiwan.

At a news conference called on November 19, 1993, after seven hijackings had been committed one after another, ARATS Vice Chairman Tang Shubei cited Taiwan’s lax treatment of Long and Zhang as one of the main reasons why so many people were committing cross-strait hijackings. “Some of them have massive debts on the mainland, and others have committed crimes,” he said. “They think they’re better off taking their chances in Taiwan than facing trial on the mainland.”\textsuperscript{174} However, Tang also reiterated that the hijackings amounted to a pressing issue that made cross-strait cooperation urgently necessary. The sheer volume of hijackings, as indicated in the following table, verifies the urgency of both sides making

\begin{table}
\caption{Volume of Cross-Strait Hijackings}
\begin{tabular}{|c|c|}
\hline
Year & Number of Hijackings \\
\hline
1988 & 1 \\
1989 & 2 \\
1990 & 3 \\
1991 & 4 \\
1992 & 5 \\
1993 & 7 \\
\hline
\end{tabular}
\end{table}

\textsuperscript{173} Most, if not all, pilots were believed to have ignored this order and flown directly to the mainland after leaving Taiwan’s airspace.
arrangements to halt the tide of hijackings.

**Table 6: Cross-Strait Hijacking Incidents, 1993-1998**

<table>
<thead>
<tr>
<th>Date</th>
<th>Hijacker(s)</th>
<th>Airline</th>
<th>Aircraft</th>
<th>Route</th>
<th>Sentence</th>
</tr>
</thead>
<tbody>
<tr>
<td>Apr. 6, 1993</td>
<td>Liu Baocai, Huang Shugang</td>
<td>China Southern Airlines</td>
<td>B-757</td>
<td>Shenzhen-Beijing</td>
<td>Both sentenced to 10 years in prison, reduced on appeal to 7 years</td>
</tr>
<tr>
<td>Jun. 24, 1993</td>
<td>Zhang Wenlong</td>
<td>Xiamen Airlines</td>
<td>B-737</td>
<td>Changzhou-Xiamen</td>
<td>9-year prison sentence upheld in appeal</td>
</tr>
<tr>
<td>Aug. 10, 1993</td>
<td>Shi Yuepo</td>
<td>Air China International</td>
<td>B-767</td>
<td>Beijing-Xiamen</td>
<td>9-year prison sentence</td>
</tr>
<tr>
<td>Sep. 30, 1993</td>
<td>Yang Mingde, Han Fengying</td>
<td>Sichuan Airlines</td>
<td>TY-154</td>
<td>Jinan-Guangzhou</td>
<td>Yang: 9 years, Han: 6 years, upheld in appeal</td>
</tr>
<tr>
<td>Nov. 5, 1993</td>
<td>Zhang Hai</td>
<td>Xiamen Airlines</td>
<td>B-737</td>
<td>Guangzhou-Xiamen</td>
<td>10-year sentence upheld in appeals</td>
</tr>
<tr>
<td>Nov. 8, 1993</td>
<td>Wang Zhihua</td>
<td>Zhejiang Airlines</td>
<td>DHC-8</td>
<td>Hangzhou-Fuzhou</td>
<td>10-year sentence upheld in appeals</td>
</tr>
<tr>
<td>Nov. 12, 1993</td>
<td>Han Shuxue, Li Xiangyu</td>
<td>China Northern Airlines</td>
<td>MD-82</td>
<td>Changchun-Fuzhou</td>
<td>Li gets 13-year prison sentence; Han given 11-year sentence</td>
</tr>
<tr>
<td>Dec. 8, 1993</td>
<td>Gao Jun</td>
<td>China Northern Airlines</td>
<td>MD-82</td>
<td>Qingdao-Fuzhou</td>
<td>10-year sentence upheld on appeals</td>
</tr>
<tr>
<td>Dec. 12, 1993</td>
<td>Qi Daquan</td>
<td>Xiamen Airlines</td>
<td>MD-735</td>
<td>Harbin-Xiamen</td>
<td>12-year sentence upheld on appeals</td>
</tr>
<tr>
<td>Dec. 28, 1993</td>
<td>Luo Changhua, Wang Yuying</td>
<td>Fujian Airlines</td>
<td>FC-518</td>
<td>Fuzhou-Xiamen</td>
<td>Luo’s 11-year sentence reduced to 9 years on appeal; Wang’s 7-year sentence upheld</td>
</tr>
<tr>
<td>Feb. 18, 1994</td>
<td>Lin Wenqiang</td>
<td>China Southwest Airlines</td>
<td>B-737</td>
<td>Changsha-Xiamen</td>
<td>6-year prison sentence upheld in appeal</td>
</tr>
<tr>
<td>June 6, 1994</td>
<td>Zou Weiqiang</td>
<td>China Southern Airlines</td>
<td>B-737</td>
<td>Fuzhou-Xiamen</td>
<td>12-year sentence upheld in appeals</td>
</tr>
<tr>
<td>Mar. 10, 1997</td>
<td>Liu Shan-chung (Taiwan)</td>
<td>Far Eastern Air Transport</td>
<td>B-757</td>
<td>Kaohsiung-Tapei</td>
<td>Deported to Taiwan, appealing conviction</td>
</tr>
<tr>
<td>Oct. 28, 1998</td>
<td>Yuan Bin, Xu Mei (wife)</td>
<td>Air China International</td>
<td>B-737</td>
<td>Kunning-Beijing</td>
<td>Yuan gets 10-month sentence for illegal</td>
</tr>
</tbody>
</table>
In a series of ARATS-SEF talks held between November of 1993 and May of 1995, both sides agreed in principle that hijacking incidents should be discouraged through the arrest and deportation of all hijackers. But differences remained sharp over crucial issues that ended up putting off the signing of a formal agreement on repatriating hijackers. The biggest difference cited by the Taiwan side was the mainland’s reluctance to let Taiwan try hijackers in its own courts, rather than immediately repatriate hijackers together with their aircraft. In addition, the mainland side initially declined to agree to Taiwan’s request that time served in Taiwan prisons by mainland hijackers be taken into consideration by Chinese courts after their repatriation. Meanwhile, the mainland strongly objected to Taiwan’s policy of “separating people from aircraft” (“renji fenli 人機分離”), under which alleged hijackers were kept in Taiwan to face trial, while the hijacked aircraft, crew and passengers were permitted to fly back to the mainland after brief questioning that rarely lasted more than a few hours. During the talks, the mainland side repeatedly insisted the hijackers be returned to the mainland together with the hijacked aircraft, and Taiwan was unable to accept this position. In addition, the Taiwan side wanted to treat the issue of repatriating hijackers as “special cases” to be dealt with on a case-by-case basis through ARATS and SEF. But the mainland side wanted to include their repatriation within the terms of the existing Kinmen Agreement.

However, as in the case of criminals fleeing Taiwan for the mainland, the
frequency of hijacking incidents eventually forced subtle changes in policy by both sides that taken together eventually started the process of deporting the hijackers. The first change was undertaken by the Taiwan side starting in late 1993, when family members of alleged hijackers were put back on planes, together with passengers and crew, rather than being permitted to stay in Taiwan. This amounted to a minor relaxation in Taiwan’s policy of “separating people from aircraft,” and probably discouraged more would-be hijackers eager to bring their families to Taiwan.

The second major change occurred after the direction of hijackings was reversed by Liu Shan-chung, who hijacked a domestic Taiwan airliner to Xiamen in March of 1997. To Taiwan’s surprise, authorities in Xiamen reacted to the hijacking much the same way that counterparts in Taiwan had done. After passengers and crew were interviewed by law enforcement officers, they were given a meal while the aircraft was refueled, and the plane was permitted to fly to Taipei that same evening. But the hijacker, Liu Shan-chung, was kept in custody on the mainland pending an investigation. While the mainland never admitted as much, the act of keeping Liu in custody while permitting the plane to return home amounted to a case of “separating people from planes,” which pleased Taiwan’s Mainland Affairs Council.  

Perhaps something that pleased Taipei even more was Beijing’s decision to deport Liu Shan-chung back to Taiwan little more than two months after the hijacking. While both sides were still at odds over whether the handover should be conducted under the terms of the Kinmen Accord, they arranged his handover by boat via Xiamen and Kinmen on May 14, 1997. The mainland’s Red Cross society

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176 In its 1997 policy statement, the MAC said: “To achieve their goal of denying our right of legal jurisdiction, the Chinese communists have advocated repatriation of hijackers on their original planes without any police guard or protection, being unreasonable and ignoring the safety of passengers. But after the Far Eastern Air Transport flight 1128 hijacking incident on March 10 of this year (1997), the Chinese communists allowed the aircraft, passengers and crew to continue their journey, while continuing to keep the hijacker for questioning. This proves the Chinese communists agree with the ‘separation of people from aircraft’ principle, and that it has become a model for both sides’ handling of such incidents.”
dispatched officials to observe the handover of Liu, while SEF officials handled the process for the Taiwan side. Taiwan’s press was informed that Liu’s handover was an “individual case” (“ge an 個案”) not conducted in accordance with the Kinmen Agreement. But on the day of his handover, Taiwan’s Justice Minister Liao Cheng-hao made it clear that while Taiwan considered Liu’s handover an “individual case,” his ministry was preparing to “immediately reciprocate” with handovers of mainland hijackers, who would also be given back on an “individual case” basis.¹⁷⁷ Liao said that as long as hijackers had finished serving the minimum amount of time in prison to qualify for release on parole, arrangements could be made to have them returned to the mainland at once.

As the table below illustrates, Liao’s promise was kept almost exactly two months after Liu Shan-chung was returned to Taiwan:

<table>
<thead>
<tr>
<th>Hijacker name</th>
<th>Date of Deportation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Liu Shan-chung (Taiwan)</td>
<td>May 14, 1997</td>
</tr>
<tr>
<td>Huang Shugang</td>
<td>July 16, 1997</td>
</tr>
<tr>
<td>Han Fengying</td>
<td>July 16, 1997</td>
</tr>
<tr>
<td>Liu Baocai</td>
<td>February 9, 1999</td>
</tr>
<tr>
<td>Wang Yuying</td>
<td>February 9, 1999</td>
</tr>
<tr>
<td>Luo Changhua</td>
<td>February 9, 1999</td>
</tr>
<tr>
<td>Zhou Weiqiang</td>
<td>February 9, 1999</td>
</tr>
<tr>
<td>Li Xiangyu</td>
<td>February 9, 1999</td>
</tr>
<tr>
<td>Zhang Wenlong</td>
<td>June 28, 2001</td>
</tr>
</tbody>
</table>

Shi Yuepo | June 28, 2001
---|---
Qi Daquan | June 28, 2001
Han Shuxue | June 28, 2001
Zhang Hai | June 28, 2001
Gao Jun | June 28, 2001
Yuan Bin | June 28, 2001
Xu Mei | June 28, 2001


Note: Three of the hijackers, Yang Mingde, Lin Wenqiang and Wang Zhihua, were also scheduled for deportation in February of 1999, but attempted another hijacking while being flown from Taiwan to Kinmen for the transfer. The three were convicted of hijacking for a second time and remain in the process of appealing their sentences. This incident was blamed for halting deportations of mainland hijackers for over a year while Taiwan came up with better security measures.

Another event that may have made Taiwan more willing to deport hijackers was the mainland’s handling of hijacker Huang Shugang, who had already served a total of four years in prison on Taiwan before being deported to the mainland. According to the Mainland Affairs Council, Huang was tried in a Shenzhen court after his return and sentenced to a total of 20 years in prison. However, in its November 20, 1998 ruling, the Shenzhen court allowed Huang’s sentence to be cut by four years to take into account the time he had already spent in detention on Taiwan. Thus while negotiators representing the mainland side did not formally make a concession recognizing the legitimacy of Taiwan’s legal jurisdiction over hijackers, a court on the mainland in actual practice did take into account time served in Taiwan prisons when meting out a new punishment.

178 The Mainland Affairs Council has kept a very close accounting of the fate of hijackers after their return to the mainland. A table detailing each hijacker’s fate is published on the MAC’s web site at: http://www.mac.gov.tw/big5/negociat/statistic/airplane.htm. The MAC’s report was based on reports on sendencings published in mainland China’s news media. Another report confirming Huang’s Taiwan prison time was taken into consideration can be seen in Wu Liying, “Taiwan Deports Nine Mainland Hijackers,” Lianhe Zaobao, Singapore, January 21, 1999.
As had happened with deportations of suspects and fugitives, the process of deporting hijackers was not stopped once it had begun with the July 16, 1997 transfer of Huang Shugang and Han Fengying. The extended delay of further handovers until June of 2001 was due to Taiwan’s internal security problem after three hijackers being transported to Kinmen for deportation injured SEF Deputy Secretary-General Jan Jyh-horng while attempting to hijack the flight and force it to fly to Guam. Of more significance was fact that deportations of hijackers continued even though the MAC could not obtain confirmation about any more hijackers having jail sentences reduced on the mainland to make up for time served in Taiwan prisons.

**Both Sides Act on Draft Agreement**

According to Taiwan’s reasoning, as stated in its 1997 position paper, both sides were dealing with hijackers in accordance with a “draft agreement” reached between SEF and ARATS. In other words, since both sides had already agreed on most of what should constitute a cross-strait agreement on handling hijacking incidents, they simply went ahead and acted according to the spirit of the consensus they had reached – even without signing the final agreement itself. The MAC put it this way:

> From November 1993 to May 1995, the two organizations on both sides (SEF and ARATS) spent two years negotiating and already reached a considerable amount of consensus, including: “Both sides agree that hijackers or suspected hijackers who use violence, force or other means to hijack a civilian airliner from one side to the other side should be deported to the side that the civilian airliner belongs to ... for punishment” and “After a process of necessary questioning, the requested side should deport the requested object (hijacker) of deportation,” as well as with regard to handovers of related evidence and methods of deportation.\(^{179}\)

While the mainland side has not generally used the term “preliminary consensus”

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to describe the arrangements that had been agreed upon, it has made open reference to
a “Draft Agreement on Deportation Matters Pertaining to Cross-Strait Hijackers”
reached between both sides during talks in Beijing during late January 1995.\footnote{Xiao Xin, “Strengthen Assistance With Individual Cases, Fight Hijacking Crime,” Cross-Strait Relations Monthly, No. 21, Beijing, March, 1999.}

The contents of the 1995 draft agreement have been revealed in media reports
published on Taiwan around the time of the second Koo-Wang meeting in 1998,\footnote{Terms of the January 25, 1995 draft agreement have been published in Taiwan newspaper reports, although the content of these reports has not been verified by ARATS. The full Chinese text of the draft is available on the Cross-Strait Interflow Prospect Foundation’s web site, at: http://www.future-china.org/spcl_rpt/koo2/c87102902.htm.}
including details of how hijacking incidents should be handled.\footnote{A translation of all 11 points reportedly contained in the draft agreement is in Appendix II of this research report.} The mainland side has not confirmed the draft agreement published in Taiwan newspapers was correct. However, if the contents of the draft agreement are assumed to be correct, Item 5 stating that time spent in Taiwan prisons would be deducted from prison sentences following hijackers’ return to the mainland would stand as a concession to the Taiwan side, which must have given Taipei extra impetus to start transferring hijackers.

SEF Secretary-General Chiao Jen-ho, who had himself participated in several rounds of negotiations with ARATS on this very issue, stated in an interview with an academic policy research foundation that both Taiwan and the mainland were largely adhering to the terms of their consensus on cross-strait hijackers, even though both sides had failed to reach a formal agreement on the issue. He said that even though no agreement had been signed, SEF and ARATS officials had maintained close contacts, including telephone calls, whenever a hijacking incident occurred. He even stressed the SEF was still adhering to a February 1994 joint press statement issued by himself and his ARATS counterpart, Tang Shubei, which he said was almost as good as an agreement. Interestingly, the joint press statement made no specific reference
to repatriation of hijackers, although it did say that “a high degree of consensus was reached” between both sides on “related problems” having to do with “deportation of persons who have entered the area of the other side in violation of related regulations,” an apparent reference to the return of migrants through the Kinmen Accord. 183  In his interview with the National Policy Foundation, Chiao was asked about the lack of a formal agreement and its impact on the hijacking problem.  He responded by saying:

We have a so-called ‘joint press statement.’ This does not count as an ‘agreement’ per se, but it is still binding on both sides... With the exception of a small number of issues, the level of agreement was rather high. As for the reason why negotiations lasted so long, it was because the mainland does not recognize Taiwan’s right to investigate and hold trials.”184

In his remarks, Chiao made it clear that regardless of whether a formal agreement was signed, both sides were already making an effort to adhere to the draft agreement.  This is yet another case demonstrating that substance was taking precedence over form when facing “practical issues” that urgently needed to be dealt with.

Besides the draft agreement on deporting hijackers, perhaps the most important document was the joint press statement that Chiao Jen-ho referred to in his interview. This is because Section 1, just before mention is made of “deportation of persons who have entered the area of the other side in violation of related regulations,” began with the following statement:

Both sides believe that negotiations on practical issues between


the two organizations (SEF and ARATS) should, with a pragmatic attitude, avoid political issues.\textsuperscript{185}

Cooperation to Protect Taiwanese Living on Mainland

In spite of the ups and downs that have occurred in cross-strait political relations, economic ties have continued to grow rapidly. One of the main reasons for this trend is the large number of Taiwan entrepreneurs who have invested billions of US dollars in mainland-based enterprises. Large numbers of Taiwanese tourists have also frequently visited the mainland since controls on mainland travel were lifted in 1987. The volume of Taiwanese visiting and staying for long periods in the mainland has also put them at risk for becoming victims of crime, and this is yet another factor that has led to increased law enforcement cooperation on both sides.

As mentioned in the earlier section about deportation of cross-strait fugitives, cooperation between both sides began even before the Kinmen Accord was signed in 1990. After direct deportations through the Kinmen Accord were arranged, law enforcement officials from both sides had opportunities to meet face-to-face while handing over suspects. However, the first time that law enforcement officials from Taiwan traveled to the mainland was in the aftermath of the March 31, 1994 “Qiandao Lake Incident,” when 24 Taiwan tourists were robbed and murdered on a tourist boat while visiting the scenic Qiandao (Thousand Island) Lake area in the mainland’s Zhejiang province. The murders prompted the cancellation of thousands of tourist trips to the mainland, and Taiwan accused the mainland of failing to protect tourists. During April and May, Taiwan’s Mainland Affairs Council announced it was temporarily canceling cross-strait cultural and tourism exchanges until the security situation on the mainland improved. At one point, Taiwan’s President Lee Teng-hui

openly blasted leaders in Beijing as “bandits,” reviving a term that hadn’t been used by Taiwan leaders since the late 1980s.

The mainland soon arrested three suspects accused of killing the tourists, and two high-ranking Taiwan police officials, Detective Hou You-yi and Criminal Investigation Bureau forensic investigations director Weng Ching-hui, were permitted to accompany a group of victims’ relatives and Taiwan media reporters to inspect the scene of the murders. Hou and Weng later complained that everything they were shown by the mainland side was already arranged in advance, and that they never got to do any real investigation work. But their trip marked the first time Taiwan police officials had been officially welcomed on the mainland – even though both men did not wear their uniforms. It was also the first time that law enforcement personnel on both sides at least presented a façade of working together to ensure the safety of Taiwanese living on the mainland. The travel ban was lifted soon after the three suspects were convicted and executed in June of 1994.

According to reports published on the mainland, law enforcement authorities are keenly aware of special problems relating to Taiwanese investors that make them more susceptible to getting involved in, or becoming victims of, criminal acts. According to these officially sanctioned reports, authorities on the mainland, including “Taiwan Affairs Offices” operating within local governments around the country, have an established pattern for handing incidents or criminal acts involving Taiwanese victims, which are commonly called “sudden events”:

With regard to sudden events having to do with Taiwanese, especially cases having to do with the lives of Taiwan compatriots, public security departments on the mainland have already set up an effective mechanism for handling such cases. ARATS and Taiwan’s SEF maintain timely contacts to coordinate work on both

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sides and provide various types of conveniences. Taiwan Affairs Offices also work as hard as they can to meet as much as possible the requests of dead victims' families and to provide post-mortem services. From protecting the crime scene to expert verification in court, from autopsies of Taiwan compatriots who died under suspect circumstances to transport of bodies back home, from making arrangements for relatives to conduct on-scene funeral service activities to handling issues such as compensation after the cases are over, related departments in the mainland already have some basic guidelines.187

The process described in the article cited above is a system that has been established by both sides to deal with “sudden events” involving Taiwanese visiting or living on the Chinese mainland. These incidents have ranged from criminal acts, such as murders or kidnappings, to serious illnesses and arrests or detentions by law enforcement authorities on the mainland. When relatives in Taiwan receive word that something may have happened to their loved ones on the mainland, they contact SEF, which confirms what has happened, makes arrangements for relatives to travel to the mainland, and provides legal advice. These functions are taken over by ARATS and local government Taiwan Affairs Offices after relatives arrive on the mainland.

<table>
<thead>
<tr>
<th>Year</th>
<th>Murders</th>
<th>Deaths due to accident, illness</th>
<th>Sent to hospitals due to accidents, illnesses</th>
<th>Robbery, assault, threat, extortion cases</th>
<th>Kidnap cases or unlawful captivity cases</th>
<th>Personal freedom restricted due to litigation</th>
<th>Persons reported missing</th>
<th>Other</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1992</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>1993</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>9</td>
<td>2</td>
<td>2</td>
<td>1</td>
<td>2</td>
<td>17</td>
</tr>
<tr>
<td>1994</td>
<td>5</td>
<td>1</td>
<td>0</td>
<td>13</td>
<td>4</td>
<td>3</td>
<td>3</td>
<td>1</td>
<td>30</td>
</tr>
</tbody>
</table>

Based on these statistics released by the Straits Exchange Foundation, the most common type of case involving Taiwanese residents of mainland China requiring SEF-ARATS assistance is “personal freedom restricted due to litigation,” totaling some 167 cases as of mid-2003. This category includes Taiwanese who are restricted from leaving mainland China pending results of legal cases being tried in local courts.\(^{188}\) In some of these cases, Taiwanese have been accused of committing crimes and have been kept in detention pending trial.\(^{189}\) But in other cases, such as common business disputes, Taiwanese are merely prohibited from leaving the

\(^{188}\) According to the SEF, many Taiwanese businesspeople have been detained in connection with accusations of owing taxes. But others who have been reported missing could have disappeared for many kinds of reasons, ranging from evading taxes to kidnapping. See Huang Pai-hsueh, “Taiwanese Businessmen Missing or Have Freedoms Restricted, 58 Cases So Far This Year,” Economic Daily News, Taipei, December 23, 2002.

\(^{189}\) According to statistics made public by KMT lawmaker Huang Chien-ting, as of March 2003, more than 400 Taiwanese businesspeople had been accused of violating mainland Chinese law, of which more than 100 were being held in mainland prisons pending trial. These figures were far higher than the official total released by the MAC. See Yang Hsiu-fen, “400 Taiwan Businessmen Violate the Law, Over 100 in Jail,” Central Daily News, Taipei, March 5, 2003.
mainland pending results of trials and appeals through the mainland’s legal system. The second most common category is “persons reported missing.” This category includes Taiwanese who have disappeared in the mainland. But it also includes persons who have willingly cut off contact with relatives in Taiwan, as well as some who have gone into hiding on the mainland. The categories of “robbery, assault, threats and extortion” and “murder” are third and fourth most common on the list of cases, followed by kidnappings\textsuperscript{190} and deaths due to either accidents or illness. The process of ARATS-SEF communication for virtually all of these cases, with the possible exception of Taiwanese being hospitalized for illnesses, requires participation by law enforcement authorities. Even cases of death from common illnesses require a death certificate to be produced by a mainland Chinese court.

The statistics released by SEF demonstrate that SEF and ARATS have been kept busy tracking down the status of some 529 individual Taiwanese since 1992. Unlike deportations and other forms of law enforcement cooperation, the process of exchanging information about Taiwanese living in or visiting the mainland has never stopped, regardless of political tensions across the Taiwan Strait. In fact, the number of individual cases being handled by both sides has steadily increased year by year, jumping from just two in 1992 to a total of 91 for the year 2002.

\textbf{Cooperation leads to direct contacts}

Exchanges of information between law enforcement authorities and courts in Taiwan and mainland China forms a crucial part of “legal assistance” between both sides. The process of exchanging information began indirectly, through INTERPOL

\textsuperscript{190} Fear of kidnappings has become so prevalent among Taiwanese businessmen that insurance firms have recently begun offering special policies covering ransom payments and even lost income during kidnapping ordeals. See Chiang Chin-yeh, “Poor Law and Order in the Mainland: Taiwanese Businessmen May Purchase Protection Insurance,” \textit{Economic Daily News}, Taipei, December 23, 2002.
and friendly third parties such as Singapore. Following the Kinmen Accord’s signing in 1990, Red Cross societies initially acted as clearinghouses for exchanges of information, but services were mostly limited to helping residents find their long-lost relatives on the other side and coordinating transfers of migrants and criminals. But ARATS and SEF were quick to take responsibility for legal assistance shortly following their establishments in 1990 and 1991. While both were established as ostensibly “private” organizations, they were legally invested with authority by governments in Beijing and Taipei to handle cases of legal assistance, and statistics provided in this research project show this constitutes much of their current workload. Recently, much attention has been focused on face-to-face negotiations between senior officials from SEF and ARATS, which have started and halted in tandem with tensions in cross-strait political relations. But as demonstrated in earlier sections of this research project, the process of exchanging information and communications between ARATS and SEF has never stopped.

One very special and interesting aspect of cross-strait law enforcement cooperation is the increasing frequency of direct contacts, such as telephone calls and face-to-face meetings between law enforcement officials from both sides. Face-to-face contacts between law enforcement officials started with brief encounters during transfers of migrants and fugitives at sea, during which police and public security officials from both sides provided security on the boats. Such meetings have also occasionally occurred on the high seas when patrol boats from both sides have simultaneously stopped suspicious vessels. Law enforcement officials have also held informal meetings during international gatherings, such as private academic seminars in third countries on criminal issues. Eventually, confidence was built up enough so that law enforcement officials from both sides now regularly take part in academic seminars in mainland China and Taiwan sponsored by “private”
organizations with close ties to both respective governments. Also in recent years, law enforcement officials on both sides have occasionally directly contacted each other, skipping the conventional ARATS-SEF channel, to seek assistance for specific, urgent cases.\footnote{A good example of this trend was reported in Taiwan’s news media on January 11-12, 2003, after police in Taipei confirmed they had rescued a mainland Chinese woman forced into prostitution after being informed of her whereabouts in a telephone call from mainland China’s Jilin Provincial Public Security Bureau. The woman had managed to phone relatives in Jilin province, who asked the Public Security Bureau to notify police in Taipei. Reports said Jilin police knew to contact Taipei’s Chungshan Precinct 2nd Sub-station after seeing reports about the precinct’s work on Hong Kong-based Phoenix TV. After initially doubting the authenticity of the call, police raided a Taipei commercial building described by Jilin police and, to their surprise, found the woman and two other victims. See “China, Taiwan Cooperate in Prostitution Case,” Associated Press article published in \textit{Taipei Times}, Taipei, January 12, 2003.}

As mentioned earlier, ARATS and SEF continue to regularly exchange information as part of their mandate to provide legal assistance. According to statistics released by the SEF, a total of 12,382 legal documents have been forwarded to ARATS between June of 1991 and June of 2002, including 3,208 such documents for the year 2001 alone.\footnote{“Statistical Data on Cross-Strait Exchanges,” released by Straits Exchange Foundation, Taipei, August, 2001, on SEF web site at: \url{http://www.sef.org.tw/www/html/ststat.htm}.} During the same 11-year period, a total of 511 individual reports have been presented to the mainland side containing results of investigations about evidence needed for legal cases, of which 81 were handed over in 2001.\footnote{“Statistical Data on Cross-Strait Exchanges.”}

But perhaps more interesting for the sake of this research project has been the opening of direct, face-to-face meetings between law enforcement officials on both sides. As mentioned earlier, such meetings have taken place during transfers of suspects and on the sidelines of international gatherings. The first visit to mainland China by active-duty Taiwan police officials took place after the 1994 murders of Taiwanese tourists at Qiandao Lake. According to information made public by the mainland’s Taiwan Affairs Office, face-to-face meetings have also occurred in situations were patrol boats from both sides have attempted to board suspicious vessels in the Taiwan Strait. For example, on May 16, 2001, the Taiwan-registered
vessel “Tsaifu No. 1” was stopped in the Taiwan Strait by a mainland Chinese customs inspection vessel after it was suspected of smuggling diesel fuel loaded on to the vessel by seven small Fujian-based fishing craft. During the inspection, Chinese customs officers were in the process of interrogating the vessel’s Taiwan crew when two coast guard vessels from Taiwan also approached the “Tsaifu No. 1.” Rather than instigate a conflict, officials from both sides discussed the incident for more than five hours before finally deciding they would assume responsibility for detaining and returning vessels and crew members from their respective sides and the meeting ended on a positive note.194

In addition to these brief encounters at sea, law enforcement authorities in mainland China and Taiwan have organized direct meetings with each other under the “cover” of academic seminars on cross-strait crime and informal visits arranged by ostensibly “private” associations of criminal detectives. The first exchange of this type took place in November of 1996, when Lu Yu-chun, who had just retired as director-general of Taiwan’s National Police Administration, visited Beijing and Shanghai in his capacity as chairman of the “ROC Criminal Detectives Association.” While Lu Yu-chun was retired from his official position as the head of Taiwan’s police force, his being chairman of the association amounted to quasi-official status, since all police detectives in Taiwan are government employees. In addition, Lu had to receive official permission to make the visit in accordance with Taiwan law governing mainland trips by retired senior government officials.

According to news media reports in Taiwan, cross-strait visits by law enforcement officials for academic seminars have been surrounded in secrecy for fear of exposure in Taiwan’s press. For example, law enforcement authorities in

194 Details about the “Tsaifu No. 1” meeting are available on the Taiwan Affairs Office web site at: http://www.gwytb.gov.cn/tfsj/tfsj0.asp?tfsj_m_id=34.
mainland China had originally planned to host active-duty counterparts from Taiwan as early as 1995, when Taiwan Criminal Investigation Bureau Director Chang You-wen was on a visit to Hong Kong. Mr. Chang’s visit to the mainland was called off at the last minute after its exposure by Taiwan’s press. Another planned visit by Criminal Investigation Bureau Deputy Director Lin Kuo-tung had to be scrapped in April 1998 for the same reason.\[195\]

Despite some of the planned visits getting canceled, others were reported to have taken place without incident. For example, 15 current and retired mainland Chinese public security officials visited Taiwan for nine days in July of 2001 in their capacity as members of the “China Police Studies Association” to take part in a cross-strait crime seminar hosted by Taiwan’s Central Police University. According to news media reports, the delegation included two active duty Public Security Ministry officials, as well as several recently retired personnel including the former director of the ministry’s criminal investigations department. Besides attending the seminar at Central Police University, the group was reported to have held informal meetings with a variety of Taiwan law enforcement officials during a tour of the island, who even used the occasions to hand over information on criminal suspects.\[196\] While Taiwan remained tight-lipped on the visit at the time, it was later openly confirmed by former National Police Administration chief Lu Yu-chun.\[197\]

These meetings were raised to a higher level in December of 2001 when the director of Taiwan’s Criminal Investigation Bureau, Cheng Ching-sung, openly took

\[196\] Details of the trip were revealed in Huang Tun-yen, “Police from Both Sides Meet, Cooperate to Fight Crime,” Liberty Times, Taipei, July 24, 2001.
\[197\] Lu’s confirmation was given in an interview with the Liberty Times. In his remarks, Lu also lamented that his attempts to arrange earlier visits by Criminal Investigation Bureau officials had been thwarted by exposure in the press. Lu’s open discussion of his role indicated that police in Taiwan were no longer trying to hide their activities from the news media. See Huang Tun-yen, “Ice-Breaking Trip Has Positive Meaning for Taiwan’s Law and Order,” Liberty Times, Taipei, December 8, 2001.
part in a “ROC Criminal Detectives Association” delegation that visited Beijing, Shanghai, Guangdong and Fujian. Led once again by Lu Yu-chun, the delegation was nominally hosted by its mainland counterpart, the “China Police Studies Association.” But according to reports, the delegation met with public security officials at local and national levels during their 12-day tour, which was dubbed an “ice-breaking trip” by Taiwan’s news media.

Two months after returning to Taiwan, Criminal Investigation Bureau Director Cheng Ching-sung openly spoke about his meetings with mainland Chinese counterparts in an interview with the *China Times*. Unlike in the past, when officials complained about the mainland’s alleged lack of enthusiasm in deporting Taiwanese fugitives, Cheng said that 80 of about 400 persons wanted by Taiwan had already been returned, which he said “showed that both sides have an understanding about fighting crime together.” In addition, Cheng said he was pleased with the outcome of his mainland trip and promised to organize reciprocal visits of a similar nature in the future.198

**Factors Working For, Against Cooperation**

**Reasons to Cooperate**

The various developments outlined in this research project clearly demonstrate that despite ongoing political differences, both mainland China and Taiwan share many compelling reasons for maintaining and expanding law enforcement cooperation. While government-to-government contacts remain elusive, people-to-people contacts, including travel, trade and investment ties, have grown to such a scale that resulting problems simply cannot be ignored, lest they threaten the

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continued healthy development of cross-strait ties. Whereas both sides could afford not to cooperate when they were isolated from each other in the past, current levels of trade and investment have created a situation of economic interdependence between both sides. In such a situation, developments with the potential to severely harm the healthy development of cross-strait relations, ranging from hijackings to crimes committed by runaway fugitives, can no longer be ignored or treated as “special cases.”

The contents of this research report demonstrate that law enforcement cooperation between Taiwan and mainland China, ranging from exchanges of legal documents to handovers of wanted fugitives, has not only continued but even expanded over the years in spite of several setbacks in cross-strait political relations. While political leaders on both sides are still unable to meet and shake hands, counterparts in the field of law enforcement have found a variety of pretexts to meet and even work together on a regular basis. On occasion, upgrades in the quality of cooperation have been prompted by “sudden events,” such as the deportations of Liu Shan-chung and Yang Kuang-nan. But looking back at the developments that followed, both sides have continued making use of upgraded modes of cooperation after former taboos have been broken. A listing of these major breakthroughs and developments that could have thwarted them, compiled from the events catalogued in this research report, is provided in the following table.

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
<th>Significance</th>
</tr>
</thead>
<tbody>
<tr>
<td>May 20, 1986</td>
<td>China Airlines, CAAC negotiate mainland’s return of hijacked CAL aircraft, crew</td>
<td>First cross-strait dialogue, also first dialogue as result of criminal act</td>
</tr>
<tr>
<td>Apr. 21, 1989</td>
<td>Taiwan murder suspect Yang Ming-tsung deported from mainland to Taiwan by</td>
<td>First-ever deportation of criminal suspect between mainland China and</td>
</tr>
<tr>
<td>Date</td>
<td>Event</td>
<td>Notes</td>
</tr>
<tr>
<td>--------------</td>
<td>----------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------</td>
</tr>
<tr>
<td>Sep. 12, 1990</td>
<td>Kinmen Accord signed by Red Cross societies from mainland China, Taiwan</td>
<td>System established to deport illegal migrants, criminals between both sides</td>
</tr>
<tr>
<td>Oct. 9, 1990</td>
<td>Wu Dapeng deported by boat from Taiwan to mainland China</td>
<td>First cross-strait deportation of criminal suspect without going through third country or area</td>
</tr>
<tr>
<td>Nov. 1990 and Nov. 1991</td>
<td>Taiwan establishes Straits Exchange Foundation (SEF), mainland later establishes Association for Relations Across the Taiwan Strait (ARATS)</td>
<td>SEF and ARATS replace Red Cross organizations as intermediary bodies authorized by Beijing, Taipei to handle private relations, conduct negotiations</td>
</tr>
<tr>
<td>Apr. 27-29, 1993</td>
<td>SEF's Koo Chen-fu, ARATS' Wang Daohan hold first summit in Singapore</td>
<td>Meeting includes general consensus to cooperate in fight against crime</td>
</tr>
<tr>
<td>Mar.-Apr. 1994</td>
<td>Taiwan Criminal Investigation Bureau sends Hou You-yi, Weng Ching-hui to mainland after Taiwan tourists murdered</td>
<td>First open visit to mainland territory by high-ranking, active-duty Taiwan police officials for criminal investigation</td>
</tr>
<tr>
<td>Jan. 25, 1995</td>
<td>ARATS, SEF prepare ‘draft agreement’ on deporting cross-strait hijackers</td>
<td>Both sides adhere to agreement despite never signing the document</td>
</tr>
<tr>
<td>Jun., 1995</td>
<td>Taiwan President Lee Teng-hui visits United States; Beijing calls off dialogue</td>
<td>China conducts missile test-firings in Taiwan Strait during July and August</td>
</tr>
<tr>
<td>Nov. 8, 1995</td>
<td>Transfers of migrants, fugitives resumed</td>
<td>Handovers resume despite political, military tensions over Lee’s US visit</td>
</tr>
<tr>
<td>Mar., 1996</td>
<td>Lee Teng-hui wins new term in inaugural Taiwan presidential election</td>
<td>China holds military drills, missile test-firings in Taiwan Strait</td>
</tr>
<tr>
<td>Nov. 1996</td>
<td>Former Taiwan National Police Admin. Director Lu Yu-chun visits mainland as head of “ROC Criminal Detective Assn.”</td>
<td>First-ever visit to mainland for meetings with law enforcement counterparts by Taiwan’s former top police commander</td>
</tr>
<tr>
<td>May 14, 1997</td>
<td>Taiwan hijacker Liu Shan-chung deported from mainland back to Taiwan</td>
<td>First hijacker deported between both sides; also first time boat carrying suspects sails directly into other side’s port, rather than handing over at sea</td>
</tr>
<tr>
<td>Jul. 12, 1997</td>
<td>Mainland hijackers Huang Shugang, Han Fengying deported from Taiwan back to mainland China</td>
<td>First mainland hijackers sent back to mainland China after completing prison terms on Taiwan</td>
</tr>
<tr>
<td>Sep. 18, 1997</td>
<td>Taiwan embezzlement suspect Tsai Chih-wei deported from mainland back to Taiwan</td>
<td>Mainland hands over US$227,000 in cash together with suspect; first time loot returned together with suspect</td>
</tr>
<tr>
<td>Oct. 14, 1998</td>
<td>Second “Wang-Koo” summit meeting held in Shanghai</td>
<td>SEF, ARATS reiterate determination to cooperate in fighting cross-strait crime</td>
</tr>
</tbody>
</table>
Besides the general trend of development that saw vast expansion of people-to-people contacts making law enforcement cooperation necessary, another overriding element making it all possible was the willingness of both sides to set aside political disputes so they could proceed with tackling “practical issues.” Thus it should not be surprising that statements urging negotiations on “practical issues” instead of difficult political issues have repeatedly been included in agreements and statements issued by both sides.

Over the years, Taiwan has complained that the mainland’s refusal to officially recognize the island’s legal status, including the legal jurisdiction of its courts and law enforcement bodies, has been the main sticking point preventing better cooperation. While official statements and private research conducted on the mainland have indeed urged adherence to Beijing’s political stance of “one China,” they have also reflected a pragmatic attitude when it comes to the issue of helping or seeking help from Taiwan. For example, a recent research report prepared by Renmin University of China Law School Professor Chen Weidong stated the following:

In the course of prosecuting criminal cases involving Taiwan,
many prosecution activities require assistance from legal organs in Taiwan, such as when suspects flee to Taiwan after committing crimes. Even though we may clearly know the situation regarding crimes committed by the suspects, the objective reality is that the suspects are not within the area of actual control of our legal organs and there is no way to arrest and prosecute them according to the law. This requires legal assistance from the Taiwan side, to help arrest, deport and hand over suspects to our legal organs for further action according to legal procedure. Only this way can crime be effectively battled and the mission of criminal case prosecution achieved.\textsuperscript{199}

To sum up, from its very beginnings to the present, the basis for cross-strait law enforcement cooperation has always been maintenance of a pragmatic attitude by governments on both sides so that political disputes can be set aside in favor of resolving pressing “practical” problems that cannot wait for political breakthroughs. Perhaps this argument is best summarized by repeating Section 1 of the 1994 joint press statement issued by ARATS and SEF:

Both sides believe that negotiations on practical issues between the two organizations (SEF and ARATS) should, with a pragmatic attitude, avoid political issues.\textsuperscript{200}

**Problems Hindering Cooperation**

The biggest problem preventing law enforcement authorities on both sides of the Taiwan Strait from cooperating more closely is the continued lack of political agreement between Beijing and Taipei. As long as they continue to squabble over troublesome issues like “one China,” Taiwan’s legal jurisdiction and the island’s status versus the mainland, law enforcement authorities on both sides will always

\textsuperscript{199} Chen Weidong, *Research on Criminal Prosecution Issues Involving Taiwan*, re-printed on *Gongyi Wang* (“Justice Web”) web site operated by *Jiancha Ribao* (Prosecutor’s Daily), newspaper published by the Supreme People’s Prosecutor’s Office of China, full text of report available on web at: http://www.jcrb.com/zyw/n6/ca12010.htm. The report was posted in November, 2000, but no date was given for its submission.

encounter problems when trying to deal with each other. However, given the lack of political agreement between the two sides, law enforcement cooperation is one of the few fields involving governments on both sides that has shown steady and marked improvement over the course of recent years. Therefore besides political disputes underlying cross-strait tensions in general, the biggest difficulties affecting law enforcement cooperation have been problems in implementing existing arrangements.

For example, several problems have hampered the process of deporting mainland Chinese migrants that at times have threatened to set back cross-strait cooperation. While on occasion these problems are not man-made, such as delays caused by poor weather conditions, officials in Taiwan have accused the mainland side of delaying the process of deportation in the hopes of pressuring Taipei back to the negotiating table. At the same time, the mainland side has accused Taiwan of trying to turn over too many migrants without proper advance notification.

On the Taiwan side, the main problem cited by government officials responsible for handling illegal migrants from mainland China is the expense of sheltering, guarding, feeding and transporting them. According to research published in 2001 by Central Police University scholars, illegal migrants who reported entering Taiwan in 1998 had to spend an average of 152 days in detention awaiting deportation. During this time, Taiwan’s government had to spend an average of NT$28,187 (US$817, HK$6,368) to pay the expenses of housing, guarding, feeding, providing medical care and transportation for each individual migrant. While this cost was down from the average of NT$31,855 (US$923, HK$7,197) recorded in 1993, Taiwan’s government had to outlay a total of NT$31.6 million (US$920,000, HK$7.14 million) to cover the expenses of the 1,121 migrants returned to the
mainland during that year alone. And while most migrants were able to return home in less than half a year, difficulties in maintaining the system of deporting the migrants has resulted in a totally inconsistent schedule for their return, meaning that some stay for short periods, while other stay far longer. For example, as of June 30, 2000, when a total of 1,657 migrants were reported in custody at the various Taiwan detention centers, some 1,380 of the inmates had been in detention for more than three months, or 83 percent of the total. As of that date, the longest amount of time spent in detention awaiting deportation was seven years and 15 days.

According to authorities in Taiwan, at least part of the blame for delays in deporting mainland migrants lies with the migrants themselves. According to an April 14, 2000 survey conducted by scholars among 187 detained migrants, three-quarters of the migrants (131 persons) thought they would be punished on the mainland after their return, while only one person did not think so and another two said they “weren’t sure.” The remaining 24 percent, or 41 persons in all, indicated they “didn’t know” if they would be punished after returning.

### Table 10: Survey of Illegal Mainland Chinese Migrants Detained in Taiwan

<table>
<thead>
<tr>
<th>Response</th>
<th>Male</th>
<th>Female</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>99</td>
<td>32</td>
<td>131 (74%)</td>
</tr>
<tr>
<td>No</td>
<td>1</td>
<td>0</td>
<td>1 (1%)</td>
</tr>
<tr>
<td>Not sure</td>
<td>2</td>
<td>0</td>
<td>2 (1%)</td>
</tr>
<tr>
<td>Don’t know</td>
<td>18</td>
<td>23</td>
<td>41 (24%)</td>
</tr>
</tbody>
</table>

Source: Data taken from survey conducted April 14, 2000 among 177 illegal mainland Chinese immigrants

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201 A Prospect of Cooperation Across the Taiwan Straits on Crime-Fighting, pp. 26-27.
202 A Prospect of Cooperation Across the Taiwan Straits on Crime-Fighting, page 65.
Given the clear indication that migrants fear being punished after returning, it should not be surprising that many of them have purposely delayed their deportation by providing false information to authorities in Taiwan. The most common way of achieving this is to provide false names and home addresses, so that the mainland’s Red Cross cannot confirm their identities. According to the research conducted by Central Police University scholars, the record-setting seven-year detention for a man surnamed Zhao (his full name was kept confidential to protect his identity) was a result of the man’s repeatedly providing false information to delay his deportation.\(^{203}\)

While some migrants intentionally thwart their departure, Taiwan has also complained about delays by the mainland authorities. For example, the mainland has given preference to receiving migrants whose domiciles are registered in Fujian province. The reasons for this preference are very practical. According to Dr. Shen’s statistics, as of June 30, 2000, 96 percent of all illegal migrants detained in Taiwan reported their domiciles were in Fujian province, of which more than half were registered in coastal Pingtan County. So when the mainland Red Cross arranges to pick up the migrants, it prefers to handle the cases of Fujianese migrants, whose homes are closest to the point of drop-off. But according to authorities in Taiwan, this causes constant delays for migrants who hail from other provinces and regions, especially those located far away from coastal areas of Fujian. This is because the mainland side tends to want to wait until a number of persons from a particular province or area are reported before agreeing to take them back, as

\(^{203}\) *A Prospect of Cooperation Across the Taiwan Straits on Crime-Fighting*, page 65.
arrangements have to be made for their return after arriving at Xiamen or Mawei.

Another problem cited by Taiwan is the irregular schedule of Red Cross boats transporting the migrants. Information provided in Dr. Shen’s research indicated the mainland side often arranged for the migrants to be picked up by old, rickety boats that were prone to turn back in rough seas or bad weather. Sometimes the mainland side would suddenly claim its boat was under repair and couldn’t make a scheduled trip to pick up migrants. According to Dr. Shen’s research, authorities believed these excuses were most commonly made during times of tensions between both sides, whether they be political in nature or merely seemingly trivial things like fishing disputes. And according to news reports published in Taiwan, officials in Taipei are convinced that the mainland frequently makes excuses to delay or cancel planned voyages during periods of political tensions. For example, a handover scheduled for January 29, 2000 was called off at the last minute by the mainland side, which cited incoming cold weather as the official reason. At the time, police officials from Taiwan openly grumbled that they believed the cancellation was more likely due to the mainland’s continuing irritation with controversial “state-to-state” remarks made by Taiwan’s President Lee Teng-hui.

Beijing also has its own complaints about how Taiwan handles deportations of illegal migrants. According to news media reports published in the mainland and Hong Kong, authorities in Taiwan constantly attempt to ship off as many persons as they can every time an opportunity presents itself, in an apparent effort to shift economic and personnel burdens. The mainland has cited this tendency to complain that migrants have been transported unsafely by the Taiwan side in order to get rid of

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*204* A Prospect of Cooperation Across the Taiwan Straits on Crime-Fighting, pp. 64-65.

Taiwan has also been accused of mixing in fishermen and small-scale traders from the mainland with the economic migrants, a practice Beijing says does not conform to the terms of the Kinmen Accord. For example, Taiwan has been accused of returning mainland Chinese crewmen employed on Taiwan fishing boats together with ordinary migrants during the transfers. According to a June, 1999 report published in Hong Kong’s pro-Beijing Ta Kung Pao, some 69 persons shipped back to the mainland as part of an April 8, 1999 transfer of 398 illegal migrants turned out to be fishing boat crewmen or small-scale traders caught selling their merchandise on the high seas, prompting protests from the mainland side.206

The mainland has also complained of alleged abuse of migrants by Taiwan authorities, ranging from corporal punishment to a lack of proper medical care. The Ta Kung Pao report cited “incomplete statistics” as saying that as many as 80 percent of returning deportees claimed to have been beaten or physically punished while in detention on Taiwan. In addition, several returnees were diagnosed as having various illnesses, ranging from minor infections to a migrant who was unable to stand up. The Ta Kung Pao report stated that at least three migrants had died while in detention on Taiwan due to not receiving prompt medical care after falling ill.207 This counters earlier arguments from Taiwan, which claimed that a small number mainland Chinese had even purposely smuggled themselves into Taiwan to seek free medical treatment while in detention.208

The mainland has also complained that Taiwan frequently provides inaccurate and incomplete information about persons it wishes to deport. For its part, Taiwan has countered these arguments by claiming that the migrants themselves often provide

207 Summary of June 27, 1999 Ta Kung Pao report.
208 A Prospect of Cooperation Across the Taiwan Straits on Crime-Fighting, pp. 66-67.
false information to delay deportation. Taiwan has also complained of having special problems with migrants caught carrying forged Hong Kong and Macau identification cards, since the policy of Hong Kong and Macau is to refuse entry to these persons, and mainland China will not accept them either.209

In addition, the mainland has frequently accused Taiwan of scuttling negotiations aimed at redressing the very issues that Taiwan has complained about. For example, the Taiwan side has been accused of trying to impose its political stance into negotiations on “practical issues.” One example commonly cited was Taipei’s alleged attempts to include wording such as “cross-strait parity,” “division,” “separation” or “divided rule” into proposed agreements, such as frequent talks dealing with the repatriation of cross-strait hijackers. While the mainland was willing to sign a deal returning hijackers from both sides, it could not accept wording in any agreement that referred to governments on both sides as legal, equal entities. Similar troubles have been attributed to squabbles over legal jurisdiction. Beijing has claimed that Taiwan has insisted on putting into writing its claim of having legal jurisdiction over certain areas or cases, which again has precluded any substantial agreements to supplement the system established under the Kinmen Accord.210 In addition, differences of opinion over sensitive yet small issues have prevented both sides from working out the details of new agreements, even though the content of these agreements was mostly settled during face-to-face talks between ARATS and SEF between 1993 and 1995. For example, when representatives of ARATS and SEF met in October of 1993, they orally agreed in principle that they wanted to work out a solution for repatriating cross-strait hijackers as part of improving the overall

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209 A Prospect of Cooperation Across the Taiwan Straits on Crime-Fighting, pp. 58-60.
mechanism for deporting persons between both sides. However, talks on this issue floundered because the Taiwan side wanted the issue to be included in future regularized dialogue mandated by the April 1993 Wang-Koo Accord, while the mainland side insisted negotiations should take place under the provisions of the already existing Kinmen Accord.211

**Directions For Future Research**

The information presented in this research report is a rudimentary summary of recent events and a basic analysis of what these events mean in the larger context of cross-strait relations. While much of this information has never been presented in the English language in detail before, it does not contain new or revealing information, either. It would be meaningful for scholars of law, policing, political economy or international relations to take the basic points of this research much further, especially with regard to theoretical concepts that could explain the success of cross-strait law enforcement cooperation. Some questions that could be answered might include how the Taiwan Strait situation compares to other, similar situations in the world (if indeed there are any), how cross-strait cooperation might serve as a model for other countries or areas to study, and what factors have made law enforcement cooperation succeed where other fields of cross-strait cooperation have failed.

It would also be extremely interesting, and very useful, if scholars could put the events summarized here in a much sharper context by analyzing details of any of the fields of cooperation listed in this research report. For example, the field of cross-strait deportations of criminals and fugitives is, in itself, a broad issue that could be explored in great detail with rewarding results. In addition, some work has

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already been done in Chinese with regard to the issue of illegal mainland Chinese migrants detained on Taiwan, including comprehensive polling of the migrants by professors from Central Police University. Investigating these aspects in further detail would contribute not only to the understanding of cross-strait relations, but also the situation of other countries around the world, such as how mainland China might deal with North Korean migrants and refugees.

Another possible element that could be isolated for exclusive research would be the recollections and views of the actual participants in cross-strait law enforcement cooperation. A good research project could include extensive interviews of law enforcement officials from mainland China and Taiwan who have themselves taken part in important developments, such as the deportation of Yang Ming-tsung or the Qiandao Lake murder case. It should be expected that over the coming years, documents will probably be released by one or both sides giving new insights into what factors actually promoted increased cooperation. In addition, we should expect to see documents leaking out with regard to the various forms of negotiations held between Taipei and Beijing over the past two decades. New sources of information will certainly shed new light on this subject and will be worthy of research. In the meantime, based on past experience, cooperation between law enforcement authorities on both sides of the Taiwan Strait will most likely continue to improve, creating even more opportunities for future academic research.
Appendix I

**Kinmen Accord**

*(Signed at Kinmen on September 12, 1990 by Chen Changhai, representing the ROC Red Cross Society, and Han Changlin, representing the Red Cross Society of China)*

Representatives of Red Cross organizations from both sides of the Strait conducted two days of working discussions from September 11-12 of this year. With regards to issues of participation and observing their responsible departments carrying out deportation by sea, the following Accord was reached:

1. **Principles of deportation:**
   It should be ensured that deportation work is conducted in line with the principles of humanitarian spirit, safety and convenience.

2. **Objects of deportation:**
   (1) Residents who have entered the area of the other side in violation of related rules (But this category does not include seeking emergency shelter by persons conducting fishing work, or who must temporarily enter the other side for
other reasons beyond their control).
(2) Suspects wanted for criminal investigations or fugitives.

3. Deportee handover point:
Both sides have settled upon Mawei < -- > Matsu, but both sides may also consult to choose Xiamen < -- > Kinmen for reasons such as the distribution situation of deportees’ original place of residence, or sea conditions.

4. Procedure of deportation:
(1) One side should notify the other side with relevant information about the deportees. The other side should verify and respond within 20 days, and deportees handed over according to the agreed time and place. The other side should be notified of any suspicions about the objects of verification, for convenience of re-verification.

(2) Both sides will use boats exclusively belonging to the Red Cross for handover of deportees, as well as private boats to function as guides from specified locations. The guide boats will raise the white Red Cross flag (and not raise other flags, nor use any other symbols).

(3) At the time of deportee handover, two representatives previously designated by both sides shall sign documents witnessing the handover (format according to the attachment).

5. Other:
Following the signing of this Accord, both sides should resolve related technical problems as soon as possible, in order to achieve implementation within the earliest possible time. Both sides may make separate arrangements for any unforeseen matters.

This Accord has been signed at Kinmen. Each side shall retain one copy.

Chen Charng-ven  79-9-12
Han Changlin  90-9-12
Appendix II

AGREEMENT ON DEPORTATION MATTERS PERTAINING TO CROSS-STRAIT HIJACKERS (DRAFT)

(Prepared by Straits Exchange Foundation and Association for Relations Across the Taiwan Strait during negotiations in Beijing concluding on January 25, 1995. This translation is based on contents of the draft agreement, which was never signed, that has been published in Taiwan newspaper reports yet has not been officially confirmed by ARATS)

1. Communication Method: The Straits Exchange Foundation and Association for Relations Across the Taiwan Strait shall contact each other with regard to deportation matters of cross-strait hijackers.

2. Applicability: Persons on both sides who use violent force or other means to hijack a civilian aircraft from one of both sides to the other side.

3. Deportation Principles: Hijackers shall be transferred to the side the civilian aircraft belongs to or is managed by for prosecution and punishment. If the objects of requested deportation belong to the side that has been requested, the side that has been requested should be responsible for handling them. Deportations of hijackers and others should conform
with a humanitarian spirit.

4. Mandatory Punishment: The method of handling hijackers should be for them to receive mandatory punishment and detention on the side where they have landed.

5. Sentence Reduction: Hijackers whose deportation has been requested may have detention sentences reduced in accordance with the amount of time already spent in detention.

6. Deportation Requests: Within request letters, the side requesting deportation should specify the hijacker’s age, sex, offer a brief description of the crime, a listing of criminal laws and regulations violated, legal reference materials and request a response.

7. Range of Prosecution: Hijackers who have been deported may not be punished for crimes other than this crime (hijacking). When prosecuting on other charges, the other side must be notified immediately, and the results of punishment must also be reported to the other side.

8. Transfer of Evidence: The side being requested must hand over evidence related to the crime to the requesting side.

9. Deportation Method: Deportation of hijackers should conducted mainly by sea transport. In special situations, air transport through Hong Kong may be permitted after consultations.

10. Point of Handover: In principle, the point of handover for hijackers should be Kinmen/Xiamen, Matsu/Mawei. Handover documentation should specify the amount of time spent in detention.

11. Deportation Costs: To be borne by the side making the deportation request. Costs of supplies required after landing of aircraft should be settled between airline companies.